

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 32125 of 2014 (M)

PETITIONER(S) :

SAMEER, AGED 27 YEARS,
S/O. SHARAFUDEEN, MUKKUVANTHODU,
THOTTARIKATHU VEEDU,
THOLIKODU P.O., NEDUMANGADU, THIRUVANANTHAPURAM.

BY ADVS.SRI.THIRUMALA P.K.MANI
SRI.DDIPU

RESPONDENT(S) :

1. THE MANAGER, TATA MOTORS FINANCE LTD,
6TH FLOOR, VIPANCHIKA TOWER, THYCAUD,
NEAR GOVERNMENT GUEST HOUSE,
THIRUVANANTHAPURAM - 695 001.

2. THE MANAGER,
TATA MOTORS FINANCE LIMITED, BUILDING A, 2ND
FLOOR, LODHA I THINK,
TECHNO CAMPUS OFF, POKHRAN ROAD,
2 THANE WEST 400 607.

3. SUB INSPECTOR OF POLICE,
VITHURA POLICE STATION, NEDUMANGADU,
THIRUVANANTHAPURAM - 695 541.

4. CIRCLE INSPECTOR OF POLICE,
PALODU, NEDUMANGADU TALUK,
THIRUVANANTHAPURAM - 695 541.

5. SUPERINTEND OF POLICE,
THIRUVANANTHAPURAM RURAL,
OFFICE OF THE SUPERINTEND OF RURAL,
THIRUVANANTHAPURAM - 675 001.

R3& R4 BY GOVERNMENT PLEADER SRI. MUHAMMED SHAFI.M.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 10-02-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

P1 - TRUE PHOTOCOPY OF THE STATEMENT OF ACCOUNTS DT.
26.11.13 ISSUED BY THE 1ST RESPONDENT.

P2 - TRUE PHOTOCOPY OF THE DEMAND NOTICE DT. 10.6.14.

P3 - TRUE PHOTOCOPY OF THE COMPLAINT DT. 19.1.14
SUBMITTED BEFORE THE CIRCLE INSPECTOR OF POLICE
PERUMBAVOOR.

RESPONDENT(S) ' EXHIBITS:

NIL

//true copy//

P.S. to Judge

K. HARILAL, J.

W.P.(c) No.32125 of 2014-M

Dated this the 10th day of February, 2015

JUDGMENT

The petitioner is a person who has availed a loan from the 1st respondent private finance company. It is the case of the petitioner that he has committed some default in the repayment of the loan amount and hence the 1st respondent has issued Ext.P2 demand notice claiming an amount of ₹3,29,206/- due from the petitioner. According to him, he is prepared to pay the actual arrear of amount due, if he has been given sufficient time. But the 1st and 2nd respondents are not inclined to grant any time to pay the instalments. It is also alleged that the 1st and 2nd respondents with the help of the respondents 3 to 5 are trying to take

possession of the vehicle from the custody of the petitioner by force. The respondents 3 to 5 have no statutory duty to assist the 1st and 2nd respondents for taking possession of the vehicle by force, even though he has committed default in repayment of the loan amount.

2. Heard the learned counsel for the petitioner. Going by the averments in the petition, it is seen that the reliefs are sought against the 1st and 2nd respondents who are private parties against whom writ of mandamus or direction cannot be issued under Art.226 of the Constitution of India. No relief is sought against the respondents 3 to 5 who are public servants under the State Government. Merely on the reason that the public servants are also included in the party array, no direction can be issued to the 1st and 2nd respondents as prayed for in the writ petition. But at the same time, it is made clear that the respondents 3 to 5 have no statutory duty to assist the 1st and 2nd respondents for taking possession of the vehicle by

force, unless they get any order from the competent authority in accordance with law. This writ petition is devoid of merits.

This writ petition is dismissed accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge