



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2015

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRA BAABU

W.P. (MD) No.17090 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

Sri Vishnu Educational Trust,
Sri Chandra Gupta Maurya
International School
Rep by its Managing Trustee,
Sai Vijay Kumaravel
43/1A, Kumuli Main Road,
Upparpatty,
Theni-625 531.

... Petitioner

Vs.

- 1.Union of India,
Rep by Secretary to Government,
Ministry of Finance,
Jeevan Deep Building,
Parliament Street, New Delhi-1.
- 2.The Assistant General Manager,
Reserve Bank of India,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai-400 001.
- 3.The Secretary to Government,
Finance Department,
Secretariat, Fort. St. George,
Chennai.
- 4.Hinduja Leyland Finance Limited,
No.1, Sardar Patel Road, Guindy, Chennai.
- 5.The Branch Manager,
Hinduja Leyland Finance Limited,
Kumuli Road, Palanichettipatty,
Theni District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 3 to take appropriate action against the respondents 4 and 5 for the claiming exorbitant interest and adopting unfair practice in seizing the vehicle and claiming interest in the case of the petitioner under hire purchase agreement and its loan amount number TNMATH00275.



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For Petitioner : Mr.V.P.Rajan
For R1 : Mr.S.Balakrishnan
For R3 : Mr.M.Murugan
Government Advocate
For R4 and R5 : Mr.K.B.Vivekanandan
For R2 : No appearance

O R D E R

This writ petition is filed seeking for a mandamus directing the respondents 1 to 3 to take action against the fourth and fifth respondents for claiming exorbitant interest and adopting unfair practice in seizing the vehicle.

2.The petitioner is the purchaser of vehicle under hire purchaser agreement with the fourth and fifth respondents. According to the petitioner, the fourth and fifth respondents are claiming exorbitant interest. Therefore, he seeks action through the respondent Nos. 1 to 3.

3.The learned counsel appearing for the fourth and fifth respondents submitted that the present writ petition is not maintainable, in view of the fact that there is an arbitration clause available in the loan agreement entered between the parties viz., the petitioner and the fourth and fifth respondents and therefore, if there is any dispute, the petitioner has to only raise an arbitration dispute and not to file a writ petition as has been done in this case. He has also placed the relevant arbitration clause of the agreement. When there is an arbitration clause in the agreement entered between the parties, it is well settled that the parties have to go only before the arbitration proceedings to settle their dispute. In this case, Clause 23 of the loan agreement contemplates that all disputes, differences and /or claim arising out of or touching upon the agreement shall be settled by arbitration in accordance with the provisions of the arbitration and conciliation Act 1996. The petitioner being a party to the said agreement, they are bound by the same and therefore, they have to resort to solve the dispute only through arbitration. Consequently, as the prayer sought for in this writ petition is not maintainable, the same is dismissed. No costs. However, liberty is given to the petitioner to raise an arbitration dispute in accordance with the terms of agreement. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.



To

1. The Secretary to Government, Union of India,
Ministry of Finance,
Jeevan Deep Building,
Parliament Street,
New Delhi-1.

2. The Assistant General Manager,
Reserve Bank of India,
Main Building,
Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai-400 001.

3. The Secretary to Government,
Finance Department,
Secretariat,
Fort. St. George,
Chennai.

4. Hinduja Leyland Finance Limited,
No.1, Sardar Patel Road,
Guindy, Chennai.

5. The Branch Manager,
Hinduja Leyland Finance Limited,
Kumuli Road,
Palanichettipatty,
Theni District.

+1cc to M/S.B.Jeyakumar, Advocate in SR.No. 71300

+1cc to M/S.K.B.Vivekanandan, Advocate in SR.No. 70870

+1cc to M/S.S.Balakrishnan, Advocate in SR.No. 70854

+1cc to Special Government Pleader in SR.No. 71091.

TS/21.12.2015/3P-10C/NGM-SS/SAR - II

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