

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.19674 of 2015
Date of Decision:08.12.2015

Amardeep Chaudhary

. . . .Petitioner

Versus

State of Haryana and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Aalok Jagga, Advocate,
for the petitioner.

Mr.Rajesh K. Sheoran, Addl. A.G. Haryana.

RAKESH KUMAR JAIN, J.

A Mercedes Benz E-280 car, bearing Registration No.HR-26-AG-0001, Engine No.195923 and Chassis No.894498, registered in the name of the Secretary to Governor of Haryana, after having been condemned, sold in auction by Director, Supplies and Disposal, Haryana on 21.2.2014 on "*as it where is basis*" and "*as it what it is basis*", to the petitioner at a price of ₹10,26,000/-. The whole amount of bid was deposited on 21.2.2014 against a receipt besides ₹1,34,720/- towards road tax though under protest. The petitioner was allowed to take away the car bearing Registration No.HR-26-AG-0001 out of the gate of Haryana Raj Bhavan on the basis of a gate pass issued by the ADC to the Governor, Haryana. The petitioner submitted Forms No.29 and 30 for transfer of the vehicle in his name but the Registration No.HR-26-AG-0001 was not

transferred in his name on the pretext that it was earmarked for His Excellency, the Governor of Haryana. Similar orders were passed on 25.8.2015 (Annexure P-18) and 3.9.2015 (Annexure P-19), hence, the present petition has been filed by the petitioner to assail the validity of the orders dated 26.2.2014 (Annexure P-9), 25.8.2015 (Annexure P-18) and 3.9.2015 (Annexure P-19) by which transfer of registration number of the vehicle purchased by the petitioner in terms of the auction notice was refused and has also prayed for a direction to respondent No.2 and 3 to transfer the said registration number in his favour.

After notice, replies have been filed by respondents No.1 to 3 and 4 separately, however, the sum and substance of both the replies is the same because it is averred that as per proviso to Sub Rule 3 of Rule 33-A of the Haryana Motor Vehicles (Second Amendment) Rules, 2003 [for short '2003 Rules'], the preferential number, on the transferred vehicle, stands automatically withdrawn at the time of its sale and in lieu thereof, another registration number, as decided by the Transport Commissioner, Haryana is allotted to the transferee and registration certificate is issued. The number so withdrawn is utilized for allotment to future applicant in accordance with the procedure specified from time to time for allotment of preferential numbers. It is also averred that vehicle was sold on "*as it where is basis*" and "*as it what it is basis*" which does not mean that the vehicle has been sold with registration number but it would mean that the purchaser can check and verify the condition of the vehicle and cannot make a complaint thereafter.

Learned counsel for the petitioner has submitted that he had purchased the vehicle, attracted by the registration number,

which cannot be refused by the respondents under the garb of proviso to Sub Rule 3 of Rule 33A of 2003 Rules which was notified on 20.5.2003 as this amendment is followed by Haryana Motor Vehicles (Second Amendment) Rules, 2008 [for short '2008 Rules], notified on 27.11.2008 and as per which the registration number 0001 has been made available to public at large at a price of ₹5 lac. It is thus submitted that once the number 0001 is sold at a price of ₹5 lac, it loses its significance of being a preferential number for the use by His Excellency, the Governor of Haryana.

In reply, it is submitted that a new Mercedes S-350 CDI (Polar White) has been purchased from M/s Berkely Motors Ltd., Karnal at the cost of ₹1,15,62,471/- bearing temporary No.HR-99-UT-7796 and the Deputy Secretary, for Secretary to Governor, Haryana, vide his letter dated 20.3.2015 has requested the State Transport Controller, Haryana to allot the Registration No.HR-26-AG-0001 of the old Mercedes Benz to this vehicle.

I have heard learned counsel for the parties and perused the record.

The facts are not in dispute but it would be pertinent to mention that it has been mention in the auction notice that vehicle will be sold on "*as it where is basis*" and "*as it what it is basis*". It is the sole responsibility of the bidder to inspect the vehicle thoroughly before quoting any price for the same.

The question in this case is "*as to whether the condemned vehicle bearing the registration number in question, being a preferential number of the vehicle of His Excellency, the Governor of Haryana, has been automatically withdrawn after the sale in view of*

Rule 33A(3)(ii) of 2003 Rules or the said registration number is to be transferred to the petitioner?

Insofar, the words “*as it where is basis*” and “*as it what it is basis*” used in the auction notice are concerned, these were qualified with the words that it would be sole responsibility of the bidder to inspect the vehicle thoroughly before quoting the price for the same and does not relate to the registration number as well because the registration number is governed by the Rule 33A(3)(ii) of 2003 Rules, which is reproduced as under: -

“(3)(ii) the following proviso shall be added, namely: -

“Provided that it would be obligatory to surrender the preferential number allotted to a person when the vehicle is intended to be transferred to another person. Thus, at the time of transfer of vehicle to another person, the preferential number allotted to the transferor shall stand withdrawn automatically and in lieu of that preferential number, another registration number as decided by the Transport Commissioner, Haryana shall be allotted to the transferee and registration certificate issued accordingly. The number so withdrawn shall be utilized for allotment to future applicant in accordance with the procedure specified from time to time for allotment of preferential numbers.”

A bare reading of the aforesaid rule clearly provides that the preferential numbers have to be surrendered at the time of allotment of the vehicle to another person for which no procedure is to be followed as the withdrawal of the said preferential number is automatic. It further provides that the Transport Commissioner, Haryana would be duty bound to provide another registration

number to the purchaser of the said vehicle in lieu of preferential number and the number so withdrawn can be utilized to a future applicant as per the procedure which may be specified from time to time for allotment of preferential numbers.

The argument raised by learned counsel for the petitioner that vide notification dated 27.11.2008, 2008 Rules have come into force and Sub Rules 3 & 4 of Rule 33A of 2003 Rules were substituted in which even registration number bearing 0001 is being sold for ₹5 lac, therefore, there is no sanctity attached to this preferential number. The relevant portion of 2008 Rules is reproduced as under: -

- “(1) These rules may be called the Haryana Motor Vehicles (Second Amendment) Rules, 2008.
- (2) In the Haryana Motor Vehicles Rules, 1993, in rule 33A, for sub-rule (3) and (4), the following sub-rules, shall be substituted, namely :-
- "(3) The registering authority shall allot to the owner of non-transport vehicle, a registration mark of his choice from amongst the registration mark specified by the Central Government on payment of additional fee as indicated below :-

Table
For Non-Transport Vehicles

Sr. No.	Registration number	Additional Fee for each number
1.	0001	Rs.5,00,000/-
2.	0007, 0009	Rs.1,50,000/-
3.	0002 to 0006, 0008	Rs.75,000/-
4.	0010, 0011, 0022, 0033, 0044, 0055, 0066, 0077, 0088, 0099, 100 and 0786	Rs.50,000/-
5.	0111, 0222, 0333, 0444, 0555, 0666, 0777, 0888, 0999, 1111, 2222, 3333, 4444, 5555,	Rs. 25,000/-

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	6666, 7777, 8888, 9999, 0012 to 0021, 0023 to 0032, 0034 to 0043, 0045 to 0054, 0056 to 0065, 0067 to 0076, 0078 to 0087, 0089 to 0098,	
6.	Any other series out of turn number within running series	Rs. 10,000/-

(4) The registering authority shall allot to the owner of transport vehicle a registration mark of his choice from amongst the registration mark specified by the Central Government on payment of additional fee as indicated below :-

For Transport Vehicles

Sr. No.	Registration number	Additional Fee for each number
1.	0001	Rs.1,00,000/-
2.	0002 to 0011, 0786	Rs.20,000/-
3.	0012 to 0021	Rs.10,000/-
4.	0022, 0033, 0044, 0055, 0066, 0077, 0088, 0099, 100	Rs.10,000/-
5.	0111, 0222, 0333, 0444, 0555, 0666, 0777, 0888, 0999	Rs. 10,000/-
6.	1111, 2222, 3333, 4444, 5555, 6666, 7777, 8888, 9999	Rs.10,000/-
7.	Any other series out of turn number within running series	Rs. 10,000/-

SAMIR MATHUR,
Financial Commissioner and Principal Secretary
to Government, Haryana, Transport Department.”

There is no force in the argument of counsel for the petitioner because it has been made clear in proviso to Sub Rule 3 of Rule 33A of 2003 Rules that it is obligatory to surrender the preferential number and the number so withdrawn can be utilized for allotment to future applicant in accordance with law from time to time and if according to the petitioner the preferential number 0001

is being sold in terms of the Rules of 2008, referred to by him, he has to pay another some of ₹5 lac.

Thus in view of the aforesaid discussion, it is amply clear that the vehicle sold to the petitioner was not along with the said registration number which he has claimed in the present writ petition and hence the present petition is hereby dismissed being denuded of any merit.

08.12.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**