

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.24484/2016

Kanchan Kar

.. Petitioner

Vs

1.The Regional Transport Officer
Chennai [North West]
Plot No.3623, G-17
New Avadi Road, Anna Nagar
Chennai 600 102.

2.The Authorised Officer
HDFC Bank Limited
No.110, Nelson Manickam Road
Chennai 600029.

3.Revathy

4.The Branch Manager
Harsha Automobiles Private Limited
No.142A, Noombal Madura VI
Madharivedu, Vellappan Chavadi
PH Road, Chennai 600077.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the respondent in Na.Ka.No.E4/03457/2015 dated 29.03.2016 and quash the same as illegal, arbitrary and non est in law and consequently direct the respondents to register the petitioner vehicle Toyota Fortuner bearing Engine No.1KDU136689 and Chasis No.MBJ11JV51050301851012 within the time stipulated by this Court.

For Petitioner : Mr.B.Vijay

For R1 : Mr.V.S.Ramesh, GA

For R2 : Mr.Ashokpathy for
M/s.Pass Associates

For RR 3&4 : No appearance

ORDER

Heard Mr.B.Vijay learned counsel appearing for the petitioner and Mr.V.S.Ramesh, learned Government Advocate appearing on behalf of the 1st respondent and Mr.Ashokpathy, learned counsel appearing for the 2nd respondent / Bank and with the consent on either side, the writ petition is taken up for final disposal.

2 Though the other respondents have been served and their names are printed in the Cause List, none appears for them.

3 The petitioner in this writ petition is a purchaser of a vehicle, viz., Toyota Fortuner, which has been sold through a Debt Recovery Tribunal, at the instance of the 2nd respondent / Bank. The original purchaser of the vehicle was the 3rd respondent herein, who has availed the Financial assistance from the 2nd respondent. The 4th respondent is the dealer who supplied the vehicle to the 3rd respondent and she defaulted in payment and consequently, the 2nd respondent / Bank, exercised its right and re-possessed the vehicle and has taken action to sell the vehicle through the Debt Recovery Tribunal and the vehicle has been sold, purchased by the petitioner. Now when the petitioner approached the 1st respondent for issuance of Registration Certificate in his favour, the 1st respondent issued notices to the respondents 2 and 3 to appear for an enquiry. The 2nd respondent / Bank did not respond to the notice and the 3rd respondent also did not appear. Therefore, the 1st respondent having left with no option, passed the impugned order pointing out that when the vehicle was sold to the 3rd respondent, a temporary registration has been issued in the name of the 3rd respondent. If the 2nd respondent / Bank had exercised its right as a financier and re-possessed the vehicle, they should have been taken steps to cancel the temporary registration granted in favour of the 3rd respondent, taken a registration in their name, then sold the vehicle.

4 In my view, all these issues have virtually become academic in the sense both the 3rd respondent, the original purchaser of the vehicle/borrower is no longer in the scene and she has not questioned the sale in favour of the petitioner. Therefore, the petitioner being a bona fide purchaser for a valuable consideration through the Debt Recovery Tribunal should be protected.

5 With this view, this Court directs the 1st respondent to issue notice to the petitioner as well as the 2nd respondent / Bank, obtain requisite documents from the 2nd respondent / Bank and proceed to grant Registration Certificate in favour of the petitioner. The 1st respondent may also note that though procedurally he may be right

in asking for cancelling the temporary registration in favour of the 3rd respondent, the same would not be necessary in the light of the fact that beyond the period of 30 days, the temporary registration itself lapses. Therefore, this Court holds that the said temporary registration is deemed to have been cancelled. The above direction to be complied with by the 1st respondent within a period of four weeks from the date of receipt of a copy of this order, subject to the cooperation extended by the 2nd respondent / Bank.

6 The writ petition stands disposed of with the above direction. No costs.

AP

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

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+1 CC Mr.B.Vijay Advocate SR.No.55833

+1 CC M/s.Pass Associates SR.No.56309

+1 CC Government Pleader SR.No.56475 & 56088

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CNR
MSI 20/10/2016