

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.33145 of 2016

Nirmala Samuel

... Petitioner

Vs

The Regional Transport Officer,
Palavakali Palayam Post,
Regional Transport Office,
Gobichettipalayam,
Erode District.

... Respondent

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to pass an order based on the petitioner's reply to the Show-cause Notice dated 06.06.2016 issued by the respondent within a stipulated time.

For Petitioner : Mr.S.Vijayakumar

For Respondent : Mr.V.S.Ramesh,
Government Advocate

ORDER

Heard Mr.S.Vijayakumar learned counsel appearing for the petitioner and Mr.V.S.Ramesh, learned Government Advocate accepting notice on behalf of the respondent and with the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner seeks for a direction to the respondent to pass an order based on the petitioner's reply to the Show-cause Notice dated 06.06.2016 within a time frame.

3. The petitioner is said to have purchased five lorries by availing finance from the Private Finance Companies and said to have closed the entire loan by repaying the same and the petitioner has Discharge Certificates. Armed with the Discharge Certificates, the petitioner has approached the respondent for transfer of the Registration Certificate in her favour and by

cancelling the endorsement made by the Finance Companies, creating a hypothecation on the vehicles. In the meantime, the petitioner being a partner of a Finance Company under the name and style of "Shri Ram City Union Finance Company, Trichy", appears to have defaulted in repayment to the investors and five of them have filed an insolvency petition before the Sub Court, Gobichettipalayam, in IP No.1/2016 in which the petitioner herein is the first debtor. Now, the petitioner seeks for a direction to the respondent to pass orders pursuant to the notice issued on 06.06.2016. The insolvency petition having been entertained by the Court in which notice has been ordered, at this juncture, the question of transferring the ownership of the vehicles or giving No Objection Certificate cannot be done by the respondent without obtaining appropriate permission from the concerned Court. The question would be as to whether the vehicles were purchased from and out of the funds of the Finance Company, which in turn, has been invested by the various investors including the five petitioning creditors who have approached the Insolvency Court at Gobichettipalayam.

4. Therefore, the relief sought for, cannot be granted at this juncture as the petitioner has to approach the Insolvency Court for appropriate relief and establish that the vehicles in question having been purchased by the petitioner, ***have** nothing to do with the default committed by the Finance Company. ***1**

5. In the light of the same, the prayer sought for by the petitioner stands rejected. However, liberty is granted to the petitioner to move an appropriate application in IP.No.1/2016 on the file of the Sub Court, Gobichettipalayam.

6. The writ petition is dismissed with the above observations. No costs.

Sd/-

Assistant Registrar(J)

Dated:29/09/2016

* and *1 are substituted as per the order of this Court dated 7.10.2016 in W.P.33145 of 2016

Sd/-

Assistant Registrar(CS-V)

Dated:1/11/2016

//True Copy//

Sub Assistant Registrar

AP

To

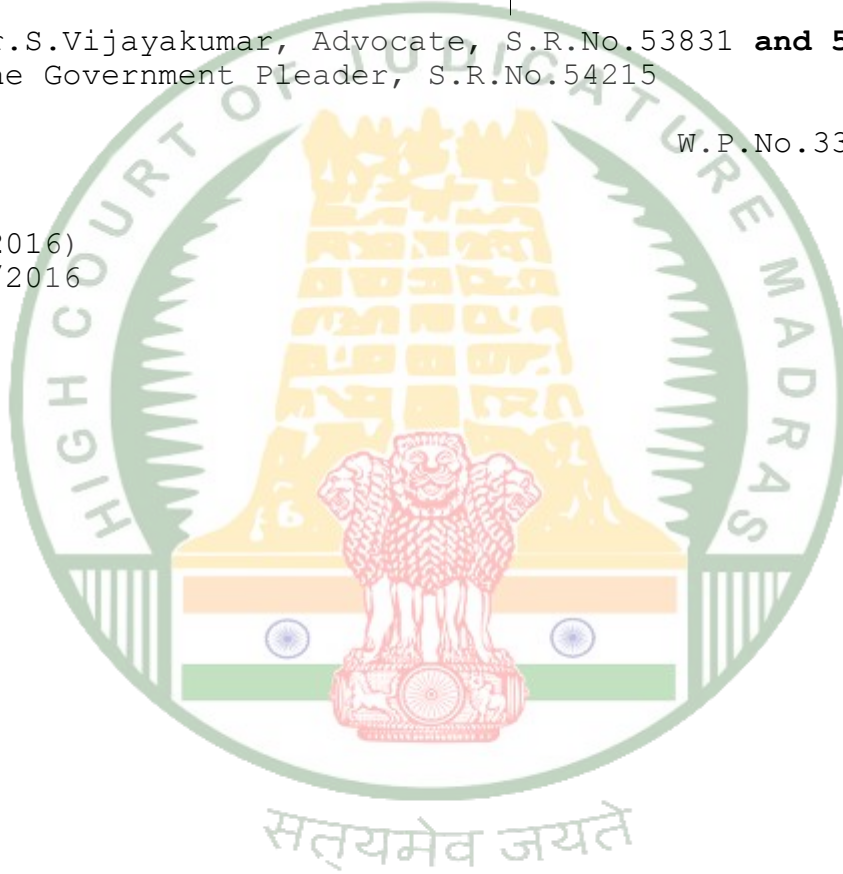
The Regional Transport Officer,
Palavakali Palayam Post,
Regional Transport Office,
Gobichettipalayam,
Erode District.

Corrected order to be
substituted for the
order already despatched on
6.10.2016

+2cc to Mr.S.Vijayakumar, Advocate, S.R.No.53831 **and 58153**
+1cc to the Government Pleader, S.R.No.54215

W.P.No.33145 of 2016

MG(CO)
CA(03/10/2016)
srg 02/11/2016



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