

In the High Court of Judicature at Madras

Dated: 23.12.2016

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.44266 of 2016
& WMP No.38111 of 2016

A.Senthil Kumar

.... Petitioner

Vs.

1. The Regional Transport Officer,
Bye Pass Road, Poonamallee,
Chennai - 600 056.
2. The Manager,
Shriram City Union Finance Limited,
Ramaswamy Avenue
New No.11 (Old No.50/5),
Vannanthurai Street, Adayar,
Chennai - 600 090.
3. The Manager,
Shriram City Union Finance Limited,
No.36/157, Ayyasamy Street,
West Tambaram,
Chennai - 600 045.

.... Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus forbearing the 1st respondent from transferring the name in respect of the petitioner's vehicle bearing Mahindra Maxi Cab Tourister vehicle bearing TN-20, CX - 4271 to any other third party, which was illegally seize by 2nd and 3rd respondent without following the procedure provided under Section 51(5) of Motor Vehicle Act, 1988.

For Petitioner : Mr.Y.Kajanavas

For Respondents : Mr.Akhil Akbar Ali, G.A. - R1

O R D E R

1. Issue Notice. Mr.Akhil Akbar Ali, accepts notice for respondent No.1.

1.1. In view of the order that I propose to pass, notice at this stage need not be issued to respondent Nos.2 and 3.

2. Therefore, with the consent of counsel for parties present before me, the Writ Petition is taken up for hearing and final disposal.

3. In this Writ Petition, the following substantial relief has been sought:

".....issuance of Writ of Mandamus forbearing the 1st respondent from transferring the name in respect of the petitioner's vehicle bearing Mahindra Maxi Cab Tourister vehicle bearing TN-20, CX - 4271 to any other third party, which was illegally seized by 2nd and 3rd respondent without following the procedure provided under Section 51(5) of Motor Vehicle Act, 1988....."

3.1. Respondent No.1 arrayed in the Writ Petition is the Regional Transport Officer, while respondent Nos.2 and 3 are, effectively, the finance company, which, even according to the petitioner, provided funds to the petitioner to purchase the subject vehicle.

4. The petitioner says that, he had been advanced a loan in the sum of Rs.5.00 lakhs. It is the petitioner's case that he has made payments to respondent Nos.2 and 3. The petitioner further avers that respondent Nos.2 and 3 have not reflected the payments made by the petitioner. It is also the petitioner's case that the subject vehicle, which bears Registration No.TN-20-CX-4271, has been seized by respondent Nos.2 and 3, albeit, forcefully.

4.1. It is the apprehension of the petitioner that respondent Nos.2 and 3 intend to sell the subject vehicle to a third party and it is for this reason that the petitioner has approached this Court, for the relief indicated above.

5. Mr.Akhil Akbar Ali, who appears for respondent No.1, says that a bare perusal of the Writ petition would show that there is an agreement obtaining between the petitioner and the finance company, i.e., Shriram City Union Finance Limited, and if there is a default, then, the said company would have the right to approach the concerned Officer under Section 51(5) of the Motor Vehicles Act, 1988 (in short the 1988 Act) to seek cancellation of the certificate of registration, in case, the registered owner refuses to deliver the same or absconds.

5.1. It is, therefore, the submission of the learned

counsel for respondent No.1 that, before proceeding further, the concerned Officer will have to call upon the registered owner to have his say in the matter.

6. The record shows that the petitioner has made a representation to respondent No.1, which is dated 20.12.2016. It appears that the petitioner has also made a police complaint, which is dated 19.12.2016.

7. Therefore, having regard to the circumstances obtaining in the matter, the Writ petition is disposed of with a direction to respondent No.1 to deal with the representation of the petitioner dated 20.12.2016, albeit, in accordance with law.

7.1. In case, respondent Nos.2 and 3 have approached respondent No.1 for cancellation, respondent No.1 shall follow the provisions under Section 51(5) of the 1988 Act.

7.2. In any event, before passing any order on the representation of the petitioner, respondent No.1 will issue notice to the concerned finance company, i.e., Shriram City Union Finance Company Limited.

8. Respondent No.1 will dispose of the representation of the petitioner by way of a speaking order, a copy of which will be supplied to the petitioner, albeit, in accordance with law.

9. Resultantly, the connected Miscellaneous Petition stands closed. However, there will be no order as to costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

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To

1. The Regional Transport Officer,
Bye Pass Road, Poonamallee,
Chennai - 600 056.
2. The Manager,
Shriram City Union Finance Limited,
Ramaswamy Avenue
New No.11 (Old No.50/5),
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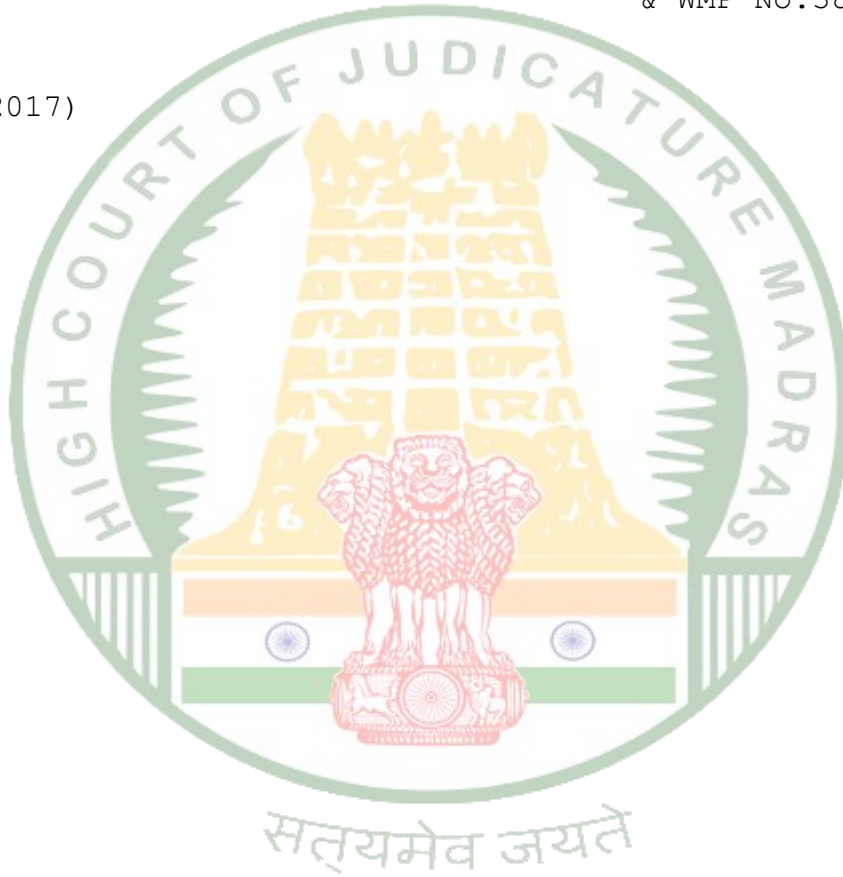
3. The Manager,
Shriram City Union Finance Limited,
No.36/157, Ayyasamy Street,
West Tambaram,
Chennai - 600 045.

+1cc to Mr. Y.Kajanas, Advocate sr.2

+1cc to The Government Pleader, High court, Madras sr.76418

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