



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2016

CORAM:

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.(MD)No.10085 of 2016

WEB COPY

Kodak Mahindra Prime Limited,
Rep.by its Authorized Signatory,
1-A, West Perumal Maistry Street,
Madurai 625 001.

... Petitioner

Vs.

The Regional Transport Officer,
Madurai South, Madurai.

... Respondent

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 02.02.2016 and to issue fresh registration certificate for the vehicle bearing registration No.TN 58 AE 9730 in the name of the petitioner company.

For Petitioner : Mr.V.Sasikumar

For Respondent : Mr.T.R.Janarthanam, AGP

ORDER

Mr.T.R.Janarthanam, learned Additional Government Pleader takes notice for the respondent. By consent, the Writ petition itself is taken up for final disposal.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3.M/s.Kodak Mahindra Prime Limited, represented by its authorized signatory, sanctioned car loan to one Mr.Nagarajan to purchase a vehicle namely, Ford Fiesta bearing registration No.TN58 AE 9730. After purchase of the said vehicle, the original registration certificate carried the hypothecation endorsement in the name of the petitioner. However, after some time, the said Nagarajan failed to make the monthly instalments, whereupon, it is stated that the vehicle was lawfully taken into the petitioner's custody, after providing sufficient opportunity to the borrower for settling the loan amount. Since the said Nagarajan refused to hand over the original registration certificate to the petitioner's company, a representation, dated 21.05.2015, was submitted to the respondent along with Form-36, requesting to issue a fresh registration certificate in the petitioner's company name.

4.Although the petitioner / company has paid necessary charges for issuance of a fresh registration certificate on 28.05.2015, the respondent / registering authority returned the application on the ground that a case is pending before this Court and hence, only after



disposal of the same, the petitioner's Application shall be considered under Section 51(5) of the Motor Vehicles Act, 1985. In this background, the petitioner has been advised to approach this Court.

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5. This Court is not able to find any merit in the present Writ petition. The reason is, when the petitioner / company has given financial assistance by way of sanctioning loan to the said Nagarajan for purchasing the abovesaid vehicle, after the alleged default said to have been committed by him, it is stated that the petitioner company has repossessed the vehicle. This Court has repeatedly reiterated that physical repossession of the vehicle in the manner unknown to law is not permissible. Nowhere, the petitioner has stated in the affidavit filed in support of the writ petition that the said Nagarajan was given an opportunity of hearing and no relevant document to that effect has been produced.

6. In any event, as there is a case pending before this Court on the very same issue, the present Writ petition cannot be entertained. Accordingly, the Writ petition fails and the same is dismissed. No costs.

Sd/
Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To
The Regional Transport Officer,
Madurai South, Madurai.

+1cc to M/S.V.Sasikumar, Advocate in SR.No.29318
+1cc to Special Government Pleader in SR.No.29065

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