

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.952 OF 2017

Uniique Automobiles (I) Pvt. Ltd.

...Petitioner

Versus

Nilesh Hindurao Patil & Anr.

...Respondents

...

Mr.Shashank Mangale for the Petitioner.

...

CORAM : R.G.KETKAR, J.

DATE : 15th March 2017

P.C.

. Heard Mr. Shashank Mangle, learned counsel for the petitioner, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner (hereinafter referred to as opposite party no.1) has challenged the Judgment and Order dated 3rd October 2015 passed by the learned Member, M.A.C.T., Kolhapur below Exhibit 27 and 28 in M.A.C. No.252 of 2013.

3. By that order, the Tribunal has rejected the application below Exhibit 27 made by opposite party no.1 for deleting it from the proceedings. The learned Member has also rejected the application below Exhibit 28 made by the opposite party no.1 for impleading Rajendra Sadashiv Mane being the owner of the vehicle in question.

4. In support of this petition, Mr. Mangale invited my attention to indemnity furnished by Rajendra Mane to opposite party no.1 dated 12th December 2012 as also delivery challan dated 12th December 2012. He also invited my attention to statement of Azruddin Abukarim Sheikh recorded on 23rd January 2013 by the police attached to Karvir Police Station. He submitted that on 12th December 2012, Rajendra Mane became the registered owner of the vehicle in question. The accident took place on 16th December 2012. He submitted that as Rajendra Mane became the owner of vehicle, on 12th December 2012 and the accident took place on 16th December 2012, the Tribunal ought to have deleted opposite party no.1 as per Exhibit 27 and impleaded Rajendra Mane in place of opposite party no.1 as per Exhibit 28.

5. It is not possible to accept this submission. While rejecting the application, the Tribunal has referred to Rule 42 of Central Motor Vehicle Rules, 1989 which reads as under:

“42. Delivery of vehicle subject to registration- No holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent”.

The Tribunal has observed that the said provision is mandatory. In fact, it also lays down consequences for failure by trader to follow the said provision. If such provision is not followed by the trader, then it shall be

lawful for the registering authority to suspend or cancel the trade certificate given to the company.

6. Perusal of tax invoice also shows that the vehicle was transferred to Rajendra Sadashiv Mane on 19th December 2012. Admittedly, the accident in question took place on 16th December 2012. As on date of the accident, it cannot be said that Rajendra Mane was registered owner of the vehicle. In view thereof, I do not find that the Tribunal has committed any error in rejecting the application.

7. Hence, the Writ Petition fails and the same is dismissed.

(R.G.KETKAR, J.)