

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.No. 9890 of 2017
and
W.M.P.No.10890 of 2017

K.Subhash Agarwal

... Petitioner

Vs.

1. The Motor Vehicles Inspector,
Grade II, Enforcement Wing (North Zone),
Office of JTC, Chennai-23.

2. The Regional Transport Officer,
Chennai Central, Chennai-23.

... Respondents

This writ petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus to direct the 2nd respondent herein to return the registration certificate of the petitioner's car OPY-01-AN-7771 (seized by the 1st respondent now in the custody of the 2nd respondent) forthwith.

For Petitioner : Mr.K.Hariharan

For Respondents : Mr.Akhil Akbar Ali
Government Advocate.

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

2. The petitioner seeks for a mandamus directing the 2nd respondent to return the registration certificate of the petitioner's car bearing Registration No.PY-01/AN-7771.

3. It is the case of the petitioner that the subject matter vehicle was purchased by him for the use at Pondicherry permanently, even though the said car was brought in Tamil Nadu occasionally, that too, not for more than two weeks. Therefore, it is the contention of the petitioner that there is no necessity for paying the entry tax. However, on 20.11.2012, the

1st respondent, while conducting an inspection, seized the R.C. Book and sent the same to the 2nd respondent for further action. Therefore, the petitioner has filed the present writ petition seeking for the return of the R.C. Book.

4. Though this matter was adjourned on three occasions for getting instructions and filing counter, the learned Government Advocate is not in a position to do so as it is stated that he was not given any instruction. In any event, as the learned counsel for the petitioner sought to rely on the order dated 14.08.2013 passed in a similar matter in W.P.No.10530/2012 directing the return of R.C. Book subject to imposition of certain conditions, I do not think that there will be any difficulty in disposing of the matter without instructions from the respondents as their interest would be protected suitably. In the above said order, this Court has directed the petitioner therein to give an undertaking before the concerned Regional Transport Officer to the effect that he will produce the vehicle as and when required. The relevant paragraph of the order reads as follows:

Hence, considering the facts and circumstances of the case and also following the above order, this court directs the petitioner to give necessary undertaking before the Regional Transport Officer, Chennai (West), the second respondent herein to the effect that he will produce the vehicle as and when required. Such undertaking shall be given by the petitioner within two weeks from the date of receipt of a copy of this order. On such undertaking and on production of the xerox copy of the said documents by the petitioner, the respondents shall release the original RC Book pertaining to the BMW car bearing Regn.No.PY-01-AX 0006 to the petitioner within a period of two weeks thereafter. It is also open to the respondents to initiate necessary action against the petitioner for the alleged violation of the permit condition by giving sufficient opportunity to the petitioner and in accordance with law.

5. Considering the above stated facts and circumstances and considering the fact that till this date no order has been passed against the petitioner so far, the writ petition is disposed of with the following terms:

(a) The petitioner shall give an undertaking in writing

before the 2nd respondent that he will not alienate or encumber the subject matter vehicle, pending final orders to be passed by the respondents

(b) The petitioner shall also give an undertaking that he will produce the subject matter vehicle before the respondents as and when required.

(c) On furnishing such undertaking given by the petitioner within a period of seven days from the date of receipt of a copy of this order and on production of the xerox copies of the original documents, the respondents shall return the original R.C. Book pertaining to the subject matter Car, bearing Registration No.PY-01/AN-7771, to the petitioner within a period of seven days therefrom.

(d) This order will not preclude the respondent from initiating necessary action against the petitioner, if there is any violation of law, after giving sufficient opportunity of hearing to the petitioner .

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Motor Vehicles Inspector,
Grade II, Enforcement Wing (North Zone),
Office of JTC, Chennai-23.

2. The Regional Transport Officer,
Chennai Central, Chennai-23.

+lcc to Mr.K.Hariharan, Advocate, S.R.No.41634

W.P.No. 9890 of 2017

NR II (CO)
RS (20/06/2017)