

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 14.07.2017****CORAM**

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR**W.P. (MD) No. 12611 of 2017**

M.Seenivasan

... Petitioner

-Vs-

1. The Superintendent of Police,
Sivagangai District.
2. The Inspector of Police,
Thirupachethi Police Station,
Sivagangai District.
3. The Branch Manager,
Mahendra and Mahendra Finance,
Karaikudi Branch,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to direct the respondents 1 and 2 to consider his representation dated 07.06.2017 and take action against the third respondent.

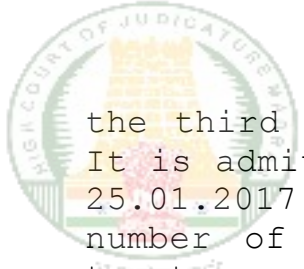
For Petitioner : Mr.R.Sathish
For Respondents : Mr.A.K.Baskarapandian,
Special Government Pleader.

O R D E R

The petitioner has come forward with this Writ Petition for issuance of a Writ of Mandamus, to direct the respondents 1 and 2 to consider his representation dated 07.06.2017 and to take action against the third respondent.

2. The learned Special Government Pleader, takes notice for the respondents. By consent, the Writ Petition is taken for final disposal at the stage of admission itself.

3. The petitioner states that he purchased a "Tractor Swaraj 744 FE" for agricultural purpose, by the financial assistance of



the third respondent, namely, the Mahendra and Mahendra Finance. It is admitted by the petitioner that the vehicle was purchased on 25.01.2017 and was registered subsequently. The registration number of the vehicle is TN-63-AP-1158. The total value of the tractor was Rs.6,60,000/- and almost 85% of the amount was financed by the third respondent. The petitioner himself admits that the third respondent has lodged a complaint before the second respondent alleging that the petitioner sold the tractor to a third party without repaying the loan amount. A case was registered against the petitioner in Cr.No.78 of 2017. The petitioner submits that due to shortage of rainfall and nil income from agriculture, he faced financial difficulties and that therefore he could not pay the installments, which is due to the third respondent. It is the further case that without considering the financial constraints and poverty of the petitioner, the third respondent is harassing the petitioner with the help of the second respondent, which is denied by the second respondent.

4. However, this Court, earlier directed the petitioner to show the tractor which was purchased, after entering into Hire purchase agreement with the third respondent. Since the tractor is the only security and it is also the legitimate expectation of the financier to see that the security is available at least, even though the money is not being repaid as scheduled.

5. The learned counsel for the petitioner submits that the tractor is missing and that he is not in a position to give the details of whereabouts the tractor.

6. In such circumstances, this Court finds that it is the petitioner, who is trying to mislead this Court and the filing of the Writ Petition is nothing but abuse of process of law. The petitioner's main contention is that criminal complaint given by the third respondent against the petitioner is false. However *prima facie* this Court finds that the complaint given by the third respondent cannot be faulted as the third respondent / the financier is not able to find the vehicle. It is to be noted that under the hire purchase agreement, the financier is the owner of the vehicle. Hence the borrower / the petitioner is bound to produce the tractor as and when it is required by the third respondent / financier. In such circumstances, this Writ Petition is dismissed with a cost of Rs.2,000/- (Rupees Two Thousand only) to be paid to the Honourable Chief Justice Relief Fund, Madras High Court, Madras.

Sd/-
Assistant Registrar(CO)

/True Copy/



To

1. The Superintendent of Police,
Sivagangai District.

2. The Inspector of Police,
Thirupachethi Police Station,
Sivagangai District.

3. The Branch Manager,
Mahendra and Mahendra Finance,
Karaikudi Branch,
Sivagangai District.

+1cc to Spl.Government Pleader Sr.No.65905

CMR/DSS

VB/SV/SAR2/31.07.2017/3P/5C

W.P. (MD) No. 12611 of 2017

14.07.2017