

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.23991 of 2017

ORDER:

This writ petition is filed seeking verbatim the following relief/s:

‘....to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents not transferring the vehicle TS 15 UA 2081 favour of auction purchaser without following the due process of law as arbitrary, illegal and unjust and violative of Articles 14 of the Constitution of India and consequently direct the respondents to follow the due process of law and pass such other order or orders..’

2. I have heard the submissions of Sri M.P.Sanjay, learned counsel for the petitioner, and of the learned Government Pleader for Transport representing the respondents. I have perused the material record.

3. The case of the writ petitioner Bank is as follows: -The branch concerned of the writ petitioner Bank sanctioned a car loan to one Gopal Vootla, a police constable, resident of Hyderabad. The said loan of Rs.4,96,000/- was sanctioned, on 24.11.2014, vide T.L.A/c.No.34425978510 through SBI, Vidhyanagar Branch, for purchase of Tata Indica Vista for the personal use of the said person. The said loan is repayable in 84 EMIs at the rate of Rs.8,300/-. He gave fake residential address, that is, the address at House No.4-8-71/3, Manjeera Nagar, Sanga Reddy, Medak District, and got registered his Car at the office of the Regional Transport Authority, Sanga Reddy District, (2nd respondent) and the Car was used for Cab services. He became a defaulter having failed to pay EMIs. Hence, his loan account became an NPA and the bank had, therefore, issued seizure notice and seized the

Car and auctioned the same after following the procedure established by law. At such auction, one Daravath Gopal became the successful bidder and the bank had issued a Certificate of Sale, dated 01.08.2016, certifying that the Car was sold to the said person for a consideration of Rs.2,92,000/- and that the sale price was paid in full and possession of the said Car was delivered to him. Though the said Gopal had purchased the Car in the auction held by the petitioner Bank and had spent more than Rs.1,00,000/- on servicing and renovation of the Car, he is unable to ply the Car for the reason that the respondents are not transferring the vehicle/Car in favour of the said auction purchaser. Therefore, the auction purchaser is requesting the bank to refund the purchase money. The inaction in transferring the vehicle in favour of the said purchaser of the Car, who purchased the Car in the auction held by the bank, despite the bank issuing a sale certificate in his favour is illegal, arbitrary, unjust and violative of provisions of the Indian Constitution. Hence, the writ petition is filed.'

4. The case of the 2nd respondent, in brief, is this: - 'The said V. Gopal at the time of registration of the Car furnished a wrong address and got the subject Car registered with the 2nd respondent authority at Sangareddy as there is a restriction for sale and registration of BS-III vehicles in Hyderabad and Secunderabad. He did so being aware of such ban. A show cause notice was issued to him calling upon him to show as to why the registration shall not be cancelled as per the provision of Section 55 of the M.V.Act. Hence, the respondents are taking action against the said registered owner in accordance with law.

For getting the vehicle registered by furnishing fake address and playing fraud, a case in Crime No.363/2016 was registered by the SHO, Sangareddy PS against the said V. Gopal for the offences punishable under Sections 420, 468 and 471 IPC. As per the MV Rules of 1989 (as amended), Bharat Stage-III and Bharat Stage-IV emission standards are being implemented in Hyderabad and Secunderabad (GHMC) Area, and Bharat Stage-III standards in the rest of the erstwhile State of Andhra Pradesh in respect of vehicles manufactured on or after 01.04.2010. A notification was issued to that effect by the Government of India in respect of Bharat Stage-III vehicles by amending the relevant Rule of the Rules. Therefore, the prohibited vehicles shall not ply in Hyderabad and Secunderabad; however, four wheeled transport vehicles may ply on Inter-State permit or national permit or All India Tourist permit within the territories of Hyderabad and Secunderabad and other cities in the State. Vehicles manufactured on or after 01.04.2005 must possess mass emission standards Bharat Stage-III. BS-III mass emission standards are applicable for whole of State of erstwhile Andhra Pradesh for the vehicles manufactured on or after 01.10.2010. Likewise, Bharat Stage-IV mass emission standards are made applicable to Hyderabad and Secunderabad (GHMC) area for four wheeled vehicles manufactured on or after 01.04.2010 and the said emission standards are applicable for whole of State of Telangana and other places in respect of the vehicles manufactured on or after 01.04.2016 except four wheeled transport vehicles. The said D. Gopal purchased the vehicle after 01.04.2005 from the registered owner, V. Gopal. The action of the said V. Gopal in getting the vehicle registered through dealers is illegal, fraudulent and

contrary to the provisions of the MV Act, 1988, the Central Rules, 1989, and the State Rules, 1989. By a memo, dated 04.06.2015, a report was also called for by the transport commissioner in regard to registration of Bharat Stage-III vehicles in the office of the 2nd respondent. As per provisions of Sections 40, 42 and 60 of the MV Act, every owner of the motor vehicle must seek the vehicle to be registered by the registering authority in whose jurisdiction such owner has a residence or place of business. The application for registration must be in the prescribed form and must be accompanied by necessary documents as prescribed by law. The dealers of motor cars are authorised to issue temporary registration certificates in the manner prescribed. As per provision of Section 45 of the MV Act, the registering authority may refuse to register any vehicle if he has reason to believe that the vehicle is stolen or is mechanically defective or if the requirements of the provisions of law are not complied with. The fitness certificate may also be cancelled if the authority is satisfied that the vehicle no longer complies with the requirements of the law. An order of the registering authority is appealable. The writ petition is devoid of merit and is liable to be set aside.'

5. Learned counsel for the parties made submissions in line with the pleadings of the parties stated supra, in detail.

6. The learned counsel for the petitioner would submit as follows: -
‘The request of Daravath Gopal, the auction purchaser of the Car from the bank, for transfer of the vehicle in his name is not being entertained by the respondents despite the sale certificate issued by the bank and

requests made by the bank as well as the said purchaser. Neither the bank nor the said purchaser are aware of the fake address furnished by the loanee, V. Gopal, till just before filing of the writ petition. The transport authority ought to have received the application for transfer and passed an order as per law and procedure. Non receipt of an application for transfer is unjust and unfair.’

7. Per contra, learned Government Pleader would submit that for the reason that the registered owner furnished a fake address and got the vehicle registered fraudulently with the transport authority, Sangareddy, and as the plying of the subject Car in Hyderabad and Secunderabad (GHMC) area, and registration of Bharat Stage-III vehicles like the present vehicle in the office of the 2nd respondent authority is prohibited under law, the request of the writ petitioner cannot be considered.

8. The subject vehicle-Tata Indica Vista LS TDI BSIII is manufactured in the month of November, 2014, and the date of delivery by the dealer, Malik Cars Pvt., Ltd., is 24.11.2014 to the buyer, Vootla Gopal, whose permanent address and temporary address as mentioned in form 21 sale certificate are house situate at Manjeeranagar, Sangareddy. At the time of registration at the office of the transport authority, Sangareddy, fake addresses were furnished by the original buyer who obtained loan from a branch of the writ petitioner bank and that plying and registration of such vehicles in Hyderabad and Secunderabad (GHMC) area is prohibited is not in dispute. Certainly, for furnishing fake addresses and playing fraud while obtaining registration of the vehicle, the authority concerned is entitled under facts

and law to proceed against the original buyer, V. Gopal. Neither the bank nor the purchaser of the Car from the bank in an auction held, have not committed any acts or omissions punishable under law. The writ petitioner is seeking a relief for transfer of the vehicle in favour of the auction purchaser from the 2nd respondent authority at Sangareddy. For any illegal acts or omissions committed by the said V. Gopal, neither the bank nor the auction purchaser from the bank can be penalised. The 2nd respondent authority is obliged under law to receive the application for transfer of the Car and pass order as per procedure established by law but cannot refuse to even entertain the application for transfer.

9. On the above analysis, this Court finds that the writ petition can be disposed of with appropriate direction.

10. In the result, the Writ Petition is partly allowed directing the respondents to receive and entertain the application for transfer, if any, submitted as per procedure in respect of the subject vehicle - TS 15 UA 2081 by the auction purchaser, Dharavath Gopal, and consider and dispose of the same in strict accordance with the procedure established by law within two weeks of submission of such application by him and communicate the decision taken thereon to him in the event the transfer/registration of the vehicle is impermissible under facts and in law. The writ petitioner bank is at liberty to do the needful in processing such request of the auction purchaser, Dharavath Gopal, by the 2nd respondent authority. This order shall not preclude the respondents or the concerned authority from proceeding in accordance with procedure and law against the original registered owner, Vootla Gopal, if necessary.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

04.12.2017

Vjl

