

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.18194 of 2017**

Arising Out of PS.Case No. -10 Year- 2014 Thana -TURKAULIYA District- EAST  
CHAMPARAN (MOTIHARI)

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M/s Zenith Credit Limited, a company incorporated under the provisions of Companies Act, 1956, 19 R.N. Mukherjee Road, Kolkata through its Authorised Signatory Amrendra Kumar Son of Sri Arjun Singh Resident of P.O. Barh Chandi P.S. Barh District Patna.

.... .... Petitioner

Versus

1. The State of Bihar.  
2. Sujay Kumar Pandey Son of B. Pandey Residing and carrying on business at Louria, P.O. Louria, P.S. Govindganj, District East Champaran, Bihar - 845411.

.... .... Opposite Party

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**Appearance :**

|                               |   |                                                               |
|-------------------------------|---|---------------------------------------------------------------|
| For the Petitioner            | : | Mr. Alok Kumar Agarwal, Advocate<br>Ms. Priya Gupta, Advocate |
| For the Opposite Party No. 2: |   | Mr. Surendra Kishore Thakur, Advocate                         |
| For the State                 | : | Dr. Indihar Kumari, A.P.P.                                    |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
ORAL ORDER

3. 27-09-2018                      Heard learned counsel for the petitioner and learned counsel representing the Opposite Party No. 2 and the State.

This application has been preferred for setting aside the order dated 30.11.2015 passed by learned Chief Judicial Magistrate, East Champaran at Motihari.

By the impugned order the learned Chief Judicial Magistrate has been pleased to reject the prayer for release of the vehicle in question in favour



of the petitioner represented through one Amrendra Kumar.

From the narration of facts, it appears that the vehicle in question was purchased by one Sujay Kumar Pandey (Opposite Party No. 2) under a hire purchase scheme whereunder the petitioner company had provided some financial assistance to Opposite Party No. 2 towards purchase of the vehicle in question. It is the case of the petitioner that when the Opposite Party No. 2 defaulted in payment of installment towards refund of loan, a Miscellaneous Case No. 1468/2014 was filed by the petitioner in the City Civil Court at Kolkata under Section 9 of the Arbitration and Conciliation Act, 1996 for an ad-interim order to appoint a receiver.

The City Civil court at Kolkata passed an order dated 02.12.2014 appointing one receiver for the purpose of seizing the vehicle in question. He was also authorized to take all necessary steps in accordance with law.

It further appears that even before passing of



the order dated 02.12.2014, the vehicle in question had met with an accident for which a First Information Report giving rise to Turkauliya P.S. Case No. 10/2014 dated 03.01.2014 under Section 279/337/427 of the Indian Penal Code.

The petitioner company seems to have filed an application in the court of learned Chief Judicial Magistrate, East Champaran, Motihari seeking release of the vehicle in question, however the same has been rejected on the ground that the tax payment status of the vehicle in question is not up to date. This application has been filed by the petitioner challenging the said order.

Learned counsel for the petitioner submits that the petitioner company had financed the vehicle. Once the purchaser has defaulted in payment of loan amount in terms of the hire purchase agreement the petitioner becomes entitled to take possession of the vehicle.

In the given facts and circumstances of the case wherein this court finds that there is an order of



City Civil Court, Kolkata appointing a receiver and the said receiver has neither approached the learned Chief Judicial Magistrate, East Champaran, Motihari to get release of the vehicle in question nor he has joined the petitioner in the present application, any direction to release the vehicle in favour of the petitioner company would be contrary to the direction issued by the learned City Civil Court, Kolkata.

In the opinion of this court, the petition preferred by the petitioner company is misconceived. By the order of the court it is only the receiver appointed by the City Civil Court, Kolkata who could have approached the court below by filing an appropriate application for release of the vehicle in question.

Thus without interfering with the order of the learned Chief Judicial Magistrate, East Champaran, Motihari, this Court would dispose off the present application giving liberty to the court appointed receiver to approach the court below with a proper application seeking release of the vehicle which



will be considered by the court below after giving an opportunity of hearing to the present Opposite Party No. 2.

It goes without saying that payment of road tax is a statutory liability and the same would be required to be paid by the persons seeking release of the vehicle.

This application stands disposed off.

**(Rajeev Ranjan Prasad, J)**

Rajeev/-

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