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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2041 of 2018

- Kuljeet Singh S/o Varyam Singh Aged About 48 Years R/o L.I.G.
246, Hudco Bhilai, District- Durg, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Appellate Officer Cum
Additional Transport Commissioner, Chhattisgarh, Naya Raipur,
Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through- Office Of The Additional
Regional Transport Officer, Durg, Chhattisgarh
3. Hindustan Leland Finance Ltd. Through Regional Manager,
Sunder Nagar Road Mahdevghat Raipur, District- Raipur,
Chhattisgarh
4. Hindustan Leyland Finance Ltd Through- Branch Manager, Nehru
Nagar, Bhilai, Durg, District- Durg, Chhattisgarh

---- Respondent

WPC No. 2119 of 2018

- Kuljeet Singh S/o Varyam Singh, Aged About 48 Years R/o L.I.G.
246, Hudco Bhilai, District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Appellate Officer Cum
Additional Transport Commissioner, Chhattisgarh, Naya Raipur
Chhattisgarh
2. State Of Chhattisgarh, Through Office Of The Additional
Regional Transport Officer Durg Chhattisgarh
3. Hindustan Leland Finance Ltd., Through Regional Manager,
Sunder Nagar Road Mahdevghat Raipur, District Raipur
Chhattisgarh
4. Hindustan Leyland Finance Ltd., Through Branch Manager,
Nehru Nagar, Bhilai, Durg, District Durg Chhattisgarh

---- Respondent

For Petitioners	Mr. Jitendra Gupta, Advocate
For Respondent/State	Mr. Shashank Thakur, Govt. Advocate

Order On Board By

Hon'ble Mr. Justice Prashant Kumar Mishra

20/8/2018

1. Heard.
2. The petitioner is aggrieved by the order(s) passed by the Additional Transport Commissioner-cum-Appellate Authority, by which, the petitioner's appeal(s) challenging the order(s) passed by the competent authority under Section 51(5) of the Motor Vehicles Act, 1988 (in short "the Act, 1988") has been rejected and the order(s) transferring registration in favour of the hire purchaser has been affirmed.
3. Learned counsel for the petitioner would make two fold submissions. Firstly, he would submit that the vehicle was illegally repossessed by the Finance Company and secondly, the petitioner was not afforded any opportunity of hearing before withdrawing registration of the vehicle and directing it to be registered in the name of Finance Company.
4. Upon perusal of the provisions contained in Section 55 of the Act, 1988, particularly sub-section 5 thereof, I am least impressed with the submissions because the statute itself provides for registration of the vehicle in the name of hire purchaser in whose favour the owner has executed a hypothecation agreement, whenever the registering authority is

satisfied that the hire purchaser has taken possession of the vehicle from the registered owner.

5. Whether or not, the hire purchaser has taken possession of the vehicle in accordance with law is not to be seen by the registering authority. As long as the possession has been recovered by the hire purchaser, the registering authority has no option but to remove the registration in the name of registered owner and transfer it in the name of hire purchaser (Finance Company).
6. The other argument that the petitioner has not been heard is contrary to the record of the proceedings mentioned in the concluding para of the impugned order, where it is clearly mentioned that both the parties were heard by the registering authority before passing the order in favour of the hire purchaser.
7. It is the settled law that whenever a party to the proceedings tries to make submission that the proceeding has not been recorded correctly, the said party has to file affidavit before the concerned authority itself and the same cannot be raised before the higher/appellate authority.
8. Both the writ petitions have no substance and they deserve to be and are hereby dismissed. Sd/-

(Prashant Kumar Mishra)

Judge

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