

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.3309 of 2011

MP.No.1 of 2011

M.Balamurugan

Petitioner

Vs

1.The Regional Transport Officer, Chennai North
Kolathur, Chennai-99

2.S.Karthikeyan

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 1st Respondent passed in Na.Ka.No.19000/E1/2010, dated 20.01.2011 and to quash the same and consequently to direct the 1st Respondent to register Tata Vehicle, bearing Engine No.4975SPTC35 BQZ605045, Chassis No.351766BQ2804053 in temporary Reg.No.TN-05-TMP-1481 in favour of the Petitioner forthwith.

For Petitioner: Ms.T.P.Kuilmozhi

For Respondents: Mr.A.Zakir Hussain,GA-RR1 and 2

ORDER

The prayer in this Writ Petition is to quash the order of the 1st Respondent, dated 20.01.2011 and to direct the 1st Respondent to register the Tata Vehicle, bearing Engine No.4975SPTC35BQZ605045, Chassis No.351766BQ2804053 in temporary Reg.No.TN-05-TMP-1481 in favour of the Petitioner forthwith.

2. This court heard the learned counsel for the Petitioner and the learned Government Advocate for the 1st Respondent and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the 2nd Respondent had purchased the vehicle in question from M/s.Tata Motors Limited, by way of hypothecation to Sriram Transport Finance Company Limited. Since the 2nd Respondent had not repaid the loan, the said vehicle was sold to one Durairaj, who in turn had sold the

same to the Petitioner, by a sale agreement, dated 28.10.2010 and thus, the Petitioner became the owner of the said vehicle, having temporary registration. Since the 1st Respondent had refused to transfer the vehicle in his name, despite receipt of his representation dated 22.11.2010, this Writ Petition has been filed, seeking the relief as stated above.

4. The learned Government Advocate has produced a letter dated, 14.11.2018 of the 1st Respondent and submitted that the vehicle in question was temporarily registered in the name of S.Karthikeyan and that as per the Motor Vehicles Act and Rules, he is the only eligible person to register permanently the said vehicle and to get certificate of Registration.

5. It is seen from the above said letter dated 14.11.2018 of the 1st Respondent that the vehicle in question was temporarily registered in the name of the 2nd Respondent and the said vehicle was hypothecated to Sriram Transport Finance Company Limited. Further, the 2nd Respondent did not register the vehicle in his name within 30 days as contemplated under the said Act and Rules. However, for default in payment of loan, the said Financier had seized the vehicle and sold the same to a third party, without permanent registration, which is against the Motor Vehicles Act. Unless a permanent certificate is issued, the present application of the Petitioner to transfer the vehicle to register the same in his name cannot be accepted. If the Petitioner is aggrieved by the impugned order, refusing to transfer the vehicle in his name, it is for the Petitioner to approach the Appellate Authority under Section 57 of the Motor Vehicles Act.

6. Considering the above said facts and circumstances and the submissions of the learned counsel on either side and the relevant provisions of the Motor Vehicles Act and Rules, this Writ Petition is dismissed, however, with a liberty to approach the Appellate Authority, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected MP is closed.

Sd/--

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Srcm

1.The Regional Transport Officer, Chennai North, Kolathur, Chennai-99

+1cc to Mr.Veera Kathiravan , Advocate SR.No. 78407

+1 CC TO GOVERNMENT PLEADER SR.NO. 78312

WP.No.3309 of 2011

ASK(03/12/2018)