

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2018

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.No.292 of 2016

and

W.M.P.Nos.183/2016, 32239& 32240 & 34631/2017

N.Thillai Govindan

... Petitioner

Vs.

- 1.The Union of India,
rep. By its Secretary to Government,
Ministry of Finance,
Jeevan deep Building,
Parliament Street,
New Delhi - 1.
2. Reserve Bank of India,
rep. By its Assistant General Manager,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai - 400 001.
3. Reserve Bank of India,
rep. By its General Manager,
No.16, Rajaji Salai, Chennai.
4. Srei Equipment Finance Limited
rep. By its Managing Director,
having its Head Office at
Plot No.Y-10, Block EP, Sector-V,
Salt Lake City, Kolkata - 700 091.
State of West Bengal.
5. Srei Equipment Finance Limited
rep. by its Director,
having its registered office at
"Vioshwakarma", 86C Topsia Road (South)
Kolkata - 700 046
State of West Bengal
6. Srei Equipment Finance Limited,
rep. By its Manager,
290, Peters Road,
Gopalapuram, Chennai - 600 086.

7. Srei Equipment Finance Limited,
rep. By its Manager,
No.89, Vivyn Palza, 100 Feet Road,
Mudaliarpet,
Pondicherry - 605 004.

... Respondents

This writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents 1 to 3 herein to take appropriate action in the manner of which transacting the financial business run by the respondents 4 to 7 herein by regulating the rate of interest and consequently forbear the Respondents 4 to 7 herein from taking possession or seizing the Petitioner's JCB Earth Moving Equipment Vehicle bearing its Registration No.TN-31-AU-8787.

For Petitioner : Mr.A.Saravanan

For Respondents: Mr.M.K.Kannan for R4 to R6
R1 & R2 - not ready
R3 & R7 - No appearance.

O R D E R

The petitioner seeks for the following relief:

To issue a Writ of Mandamus to direct the respondents 1 to 3 herein to take appropriate action on the financial business run by the respondents 4 to 7 herein by regulating the rate of interest and consequently forbear the Respondents 4 to 7 herein from taking possession or seizing the Petitioner's JCB Earth Moving Equipment Vehicle bearing its Registration No.TN-31-AU-8787.

2. Heard both sides.

3. The petitioner purchased the JCB Earth Moving Equipment Vehicle with Registration No.TN-31-AU-8787 under the hire purchase agreement entered into with the 6th respondent. It is stated that the petitioner's wife stood as a guarantor for the said hire purchase loan transaction. It is stated that the petitioner defaulted in making the periodical instalments and consequently, the matter went before the Arbitration, where an award was also passed on 01.12.2015. The petitioner being a party to the said proceedings, has however chosen to file the present writ petition without disclosing those facts. Though the learned counsel for the petitioner contended that there was a shifting of loan from the account of the petitioner to the account of his wife without notice to the petitioner, the fact

remains that an award was passed against his wife wherein the petitioner was shown as a guarantor. When such being the factual position, the petitioner cannot agitate the matter before this Court by way of the present writ petition without challenging the award said to have been passed as early as on 01.12.2015. It is also stated by the learned counsel for the petitioner that during the pendency of this writ petition, the said vehicle was also seized by the financier. Needless to say that all these contentions raised before this Court cannot be considered in a writ jurisdiction as the remedy for the petitioner lies elsewhere since an award was already passed by the Arbitrator and the same is hanging on his head. Accordingly, I find that no ground to entertain the writ petition, as the same is liable to be dismissed on the ground of maintainability. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

vsi

To

1.The Secretary to Government,
Union of India, Ministry of Finance,
Jeevan Deep Building, Parliament Street,
New Delhi - 1.

+2cc to Mr.Saravanan, Advocate SR.No.10933

W.P.No.292 of 2016

MG(CO)
GN(26/02/2018)

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