



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.[MD]No.19582 of 2018

and

W.M.P.[MD]No.17354 of 2018

Manomani

: Petitioner

Vs.

1. The General Manager,
(Private Financial Institution),
Reserve Bank of India,
Kamarajar Salai,
Chennai.
2. The General Manager,
Sri Ram Equipment Finance Company Limited,
3rd Floor Moohamibiga Complex,
No.4 Lady Design Road,
Mylapore,
Chennai.
3. The Regional Manager,
Sri Ram Equipment Finance Company Limited,
Transport Finance Company Limited,
Balson Building, 2nd Floor,
South 4th Street,
Pudukkottai - 622 001.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the second and third respondents to hand over the possession of the seized Tipper lorry bearing Registration No.TN 28 AK 3166 to the petitioner within a time frame fixed by this Court.

For Petitioner

: Mr.M.M.Iqbal

O R D E R

The case of the petitioner is that he was operating a Tipper lorry bearing registration No.TN 28 AK 3166 for agriculture and construction purposes. The petitioner has obtained loan from the third respondent in order to purchase the said Tipper lorry and the same have been purchased on 08.08.2011.

2.According to the petitioner, he has been properly remitting the monthly installments regularly against the total loan availed by him i.e., RS.9,50,000/-. He had till the date of filing of the writ petition repaid the amount of Rs.5,35,087/-.



3.While so, the petitioner had committed default in re-payment of the monthly loans. Notices has been issued to the petitioner on behalf of the third respondent, calling upon the petitioner to pay the outstanding dues to the tune of Rs.42,87,125.13/- According to the third respondent, the due was calculated as on 04.08.2018. It appears that the tipper lorry which was financed by the third respondent has been seized by them towards settlement of the outstanding dues by the petitioner to the third respondent.

4.In the above circumstances, the petitioner is before this Court seeking for a direction to second and third respondents to hand over the seized tipper lorry.

5.This Court is unable to understand as to how the writ petition is maintainable against the second and third respondents who are admittedly a private finance company and not amenable to the jurisdiction of this Court under Article 226 of the Constitution of India.

6.Although, an attempt has been made by the learned Counsel for the petitioner that the guidelines issued by the Reserve Bank of India govern the sixth respondent company as well and therefore, the writ petition is maintainable, such arguments in the opinion of this Court is completely devoid of any substance. If such argument is to be accepted in order to maintain the writ petition, in every case, where a private finance company is involved in any dispute, the writ jurisdiction of this Court would be invoked at the first instance by making Reserve Bank of India as a party to make it appear as if the writ is maintainable.

7.From the averments and the materials as disclosed in the affidavit, it is very clear that the petitioner has a civil dispute as against the second and third respondents and such civil dispute has been sought to be settled by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The second and third respondents against whom the direction is sought cannot be defined as State by any stretch of legal standard under Article 12 of the Constitution of India and the Writ jurisdiction cannot be invoked in the adjudication of private dispute as between the petitioner and second and third respondents. In fact, the first respondent, namely, Reserve Bank of India is not a necessary and proper party since no direction is sought against the first respondent and it is a clear ploy employed by the petitioner in order to make it appear as if the writ is maintainable.

8.For the above said reason, the writ is se ex-facie not maintainable. Although, the writ petition is dismissed on the ground of maintainability, but even on merits the affidavit is completely bereft of any details as to the settlement of loan amounts due to



the second and third respondents by the petitioner and the averments made in the affidavit are totally bald without disclosing any specific cause of action. Therefore, this Court finds that even otherwise, the writ petition is devoid of merits and substance.

9.The Writ Petition is dismissed, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar(CS-IV)

+1cc to Mr.M.M.Iqbal, Advocate Sr.No.84272

MR

VB/RSK/SAR4/08.10.2018/3P/2C

ORDER MADE IN
W.P. [MD]No.19582 of 2018
11.09.2018