



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.21776 of 2018 and
W.M.P. (MD)No.19698 of 2018

P.Shivakumar

... Petitioner

Vs.

1. The District Collector/
The Regional Transport Authority,
Madurai,
Madurai District.

2. The Regional Transport Officer,
O/o.the Regional Transport Office(North),
Madurai,
Madurai District.

3. The Motor Vehicle Inspector,
O/o. The Regional Transport Office(North),
Madurai.

(R-3 is suo motu impleaded
by order dated 08.11.2018)

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to register the car Viz., "MITSUBISHI PAJERO SPORTS(AT)", Chassis No.MA702KG4WFG005382, Engine No.4D56UCFV3245 without insisting trade Certificate in the light of Rule 47 of Central Motor Vehicle Rules 1989 and by considering the petitioner's representation dated 18.09.2018 within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan,
Senior counsel,
for M/s.Ajmal Associates.

For Respondents : Mr.M.Rajarajan,
Government Advocate.

O R D E R

The Writ petitioner herein purchased a car, namely, "MITSUBISHI PAJERO SPORTS(AT)", bearing Chassis No.MA702KG4WFG005382, Engine No.4D56UCFV3245 from a registered dealer on 20.07.2016. Thereafter, he submitted an application to the second respondent herein for permanent registration of the said vehicle. Since the second respondent informed the petitioner that in the absence of Trade Certificate, the vehicle in question cannot be registered, the present Writ petition came to be filed.

2. The Motor Vehicle Inspector, O/o. the Regional Transport Office(North), Madurai, is suo motu impleaded as the third respondent. Mr.M.Rajarajan, learned Government Advocate takes notice for the third respondent.

3. Heard the learned Senior counsel appearing for the Writ petitioner as well as the learned Government Advocate appearing for the respondents. Sri.Karuppuchamy, Regional Transport Officer, Madurai North, is also present in person and assisted the Court.

4. According to the respondents, there was no follow up action on the part of the Writ petitioner. The petitioner herein after purchasing the vehicle did not submit the application in Form-20. Nor did he produce the vehicle in question for inspection. Had these formalities been done in time, the Trade Certificate could have been sourced from the dealer then itself. The dealer could not have delivered the vehicle to the petitioner herein without registration either temporary or permanent. The respondents drew the attention of this Court to Rule 42 of Central Motor Vehicle Rules, 1989, which reads as under:-

"42. Delivery of vehicle subject to registration - No holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent."

The stand of the respondents is that the petitioner has to blame himself for the current situation.

5. I am of the view that substantial justice will have to be rendered. The fact remains that the petitioner herein had purchased a vehicle from a registered dealer. The present complications have arisen, because the registered dealer which was an incorporated Company had subsequently closed shop. Therefore, the petitioner is not in a position to obtain the Trade Certificate from the Company which probably has been wound up. For registering a vehicle, an application will have to be made in Rule 47 of the Central Motor Vehicles Rules. The said application will have to be accompanied by the following documents:-



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- "(a) sale certificate in Form 21;
(b) valid insurance certificate;
(c) Copy of the proceedings of the State Transport Authority or Transport Commissioner or such other authorities as may be prescribed by the State Government for the purpose of approval of the design in the case of a trailer or a semi-trailer;
(d) original sale certificate from the concerned authorities in Form 21 in the case of ex-army vehicles;
(e) proof of address by way of any one of the documents referred to in Rule 4;
(f) temporary registration, if any;
(g) road-worthiness certificate in Form 22 from the manufacturers Form 22-A from the body builders;
(h) Custom's clearance certificate in the case of imported vehicles along with the licence and bond, if any;
Provided that in the case of imported vehicles other than those imported under the Baggage Rules, 1998, the procedure followed by the registering authority shall be same as those procedure followed for registering of vehicles manufactured in India, and;
(i) appropriate fee as specified in Rule 81.
(j) proof of citizenship.
(k) proof of legal presence in India in addition to proof of residence in case of foreigners."

6. In the present case, the primary objection of the respondents appears to be that the vehicle in question does not have the temporary registration. But then, the expression "if any" is found in Rule 47(1)(f). In other words, an application in Form 20 can be submitted even though the vehicle does not bear any temporary registration. Otherwise the expression "if any" will not have any meaning.

7. It has been consistently observed by the Courts that any vehicle should not be kept idle. Even if a vehicle is involved in an offence, the Courts give a direction for their provisional release. In this case, the petitioner herein has purchased the vehicle for a valuable consideration. It is true that the petitioner is also at fault. But then, for this reason he does not deserve to suffer.

8. I therefore direct the second respondent herein to receive a fresh application in Form 20 from the petitioner herein. The petitioner herein shall also produce the vehicle in question for inspection by the Motor Vehicle Inspector. The petitioner shall comply with the requirements as set out in Rule 47. The third



respondent shall register the vehicle without insisting on production of Trade Certificate or temporary registration.

9. The Writ petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

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Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector/
The Regional Transport Authority,
O/o.the Regional Transport Office(North),
Madurai,
Madurai District.
2. The Regional Transport Officer,
O/o.the Regional Transport Office(North),
Madurai,
Madurai District.
3. The Motor Vehicle Inspector,
O/o. The Regional Transport Office(North),
Madurai.

+1CC TO M/S.AJMAL ASSOCIATES, ADVOCATE, SR NO.94587
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.94611

ORDER MADE IN
W.P.(MD)No.21776 of 2018 and
W.M.P.(MD)No.19698 of 2018
08.11.2018

pmu

MS/VR/SAR-3/19.11.2018/4P.6C