

RSA-1813-2017 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA-1813-2017 (O&M)
Date of decision : 10.12.2018**

Tahir

... Appellant

Versus

Tata Motors Finance

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Virendra Rana, Advocate
for the appellant.

AMIT RAWAL, J.

The appellant-plaintiff has not been successful in claiming the injunction against the defendant from taking forcible possession of vehicle bearing its registration No.HR-55M-3386 .

It was alleged that the aforementioned vehicle was purchased from one Hakmudeen, on 30.05.2014, for a valuable consideration of ₹12,50,000/-. There was no endorsement with regard to the encumbrance or loan. The defendant on the account of default in the installment regarding loan obtained by Hakmudeen wanted to take the possession, therefore, the suit, aforementioned was filed.

The defendant opposed the suit and stated that Hakmudeen had obtained a loan from financial institution, but in collusion with the Clerk of Registration Authority, got the registration certificate in his name without entering the name of defendant under the column of hypothecation. A sum

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of ₹25 Lacs was outstanding to Hakmudeen. In the absence of no objection certificate, the vehicle could not have been transferred.

Learned counsel appearing on behalf of the appellant-plaintiff submitted that once the registration was in favour of the plaintiff, the defendant had no right to take the possession.

I am afraid the aforementioned argument is not sustainable as a person, who does not have a title, cannot pass on the better title, for, the defendant has been able to place on record the documents to show that the aforementioned truck was hypothecated, in lieu of the loan, which contained a clause of repossession of the vehicle, in case of default of installment. In such circumstances, the plaintiff cannot be permitted to seek injunction and rightly so, the suit was dismissed.

In this view of the matter, I do not find any illegality and perversity in the judgments and decrees of the Courts below, much less, no substantial question of law arises for determination. No ground for interference is made out.

Resultantly, the present regular second appeal is dismissed.

10.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**