

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: October 09, 2018

+ **CM(M) 673/2016 & CM 24772/2016**

M/S EICHER MOTORS LTD

.....Petitioner

Through: Mr. Sanjay Agnihotri and Mr. Ajay
Sharma, Advocates

versus

NIRDESH KUMAR @ NIRDESH & ORS.

.....Respondents

Through: Mr. Samaksh Goyal, Advocate for
respondent-GNCTD

S.I. Naveen, P.S.Khanjawala

Mr. S.N. Parashar, Advocate for respondent No.
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CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 7th April, 2016 (*Annexure- A*) impleads petitioner as presumed owner of the tractor involved in the accident, which took place way back on 10th May, 2009. Petitioner had filed an application for deletion of its name from the array of parties, which stands dismissed vide impugned order of 28th May, 2016. The impugned order calls upon petitioner to file its reply mentioning as to whom the said tractor was sold.

2. The challenge to the impugned orders of 7th April, 2016 and 28th May, 2016 by learned counsel for petitioner is on the ground that the tractor in question was sold way back in the year 1990 and the record to

show as to whom it was sold, is not available. Attention of this Court is drawn to Section 2 (30) of *the Motor Vehicles Act, 1988* to point out that petitioner does not come within the definition of 'owner' in *Motor Vehicles Act, 1988*. So, it is submitted that the impugned orders deserve to be set aside.

3. On the contrary, learned counsel for respondent-*Bal Krishan @ Babli* supports the impugned orders and seeks dismissal of this petition.

4. Upon hearing and on perusal of impugned orders and the definition of 'owner' as given in the *Motor Vehicles Act, 1988*, I find that as per status report of 11th April, 2017 placed on record by the State, the concerned Regional Transport Authority has given a report that the record regarding Registration Certificate of this tractor is not available as it has been burnt in an accidental fire. It is matter of record that second respondent-*Bal Krishan* had produced the tractor in question before the local police. It is the case of second respondent that his goods were being transported in the tractor in question and after the accident, the tractor was abandoned by driver of tractor and so, in this background, second respondent had produced the tractor in question before the local police.

5. During the course of hearing, it was brought to notice of this Court by petitioner's counsel that driver of tractor in question had expired in some other accident. Be that as it may. It is for the second respondent to show before the Tribunal as to under what circumstances second respondent had produced the tractor in question before the local police. In any case, petitioner's impleadment is wholly unjustified in view of Section 2 (30) of *the Motor Vehicles Act, 1988*. Impugned orders are set

aside to the extent they implead petitioner as deemed owner of the tractor in question and seek reply from petitioner.

6. This petition and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

OCTOBER 09, 2018

v

