

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.04.2019

Coram

THE HON'BLE MR. JUSTICE G.R.SWAMINATHAN

W.P.No. 24286 of 2007 and

M.P.No.1 of 2007

Suresh Kumar Beig

... Petitioner

Versus

1. The Special Tahsildar,
Office of the District Collector,
Chennai - 1.

2. The Regional Transport Officer,
Tiruvallur.

3. Devarajan Respondents
(Cause title amended as per order dated 26.08.2010 and
made in M.P.No.1 of 2007 in W.P.No. 24286 of 2007)

PRAYER:

This writ petition is filed under Article 226 of
Constitution of India to issue a writ of Certiorari,
calling for the records of the first respondent herein
relating to his order dated 13.04.2007 in
Mu.Mu.No.P.1/37391/2006 and quash the same.

For Petitioner : Mrs.A.L. Gandhimathi

For Respondents 1 and 2 : Mr.M.Karthikeyan
Additional Government Pleader

For Respondent 3 : No Appearance

O R D E R

This Writ petition is filed seeking issuance of a writ of certiorari, calling for the records of the first respondent herein relating to his order dated 13.04.2007 in Mu.Mu.No.P.1/37391/2006 and quash the same.

2. The writ petitioner is a financier. The 3rd respondent herein entered into a Hire Purchase agreement dated 11.01.2002, with the petitioner herein for purchasing a Auto. The loan amount to be paid by the third respondent was Rs.1,40,000/-. The 3rd respondent has to pay a sum of Rs.7,000/- as monthly instalment.

3. According to the writ petitioner, the 3rd respondent was not regular in the remittance of the monthly instalment and he still owes to pay a further sum of Rs.27,090/- but, without paying the said amount the 3rd respondent demanded to issue No Objection Certificate, from the writ petitioner. The writ petitioner declined to issue the said No Objection Certificate. Thereafter, the 3rd respondent filed a petition before the first respondent. The first respondent by the impugned order dated 13.04.2007 directed the writ petitioner to issue the No Objection Certificate after calculating the interest amount for the delayed payment from the 3rd respondent. According to the first respondent, the third respondent delayed repayment by 3 months and 20 days, and the petitioner was entitled to demand interest only for the said period.

4. This order passed by the first respondent dated 13.04.2007 in MU.P1/37391/06 was challenged by the writ petitioner in this writ petition.

5. Though the third respondent was served notice, and his name is also printed in the cause list none appeared for him either in person or through counsel.

6. The learned counsel appearing for the writ petitioner submitted, that this writ petition will have to be allowed on the sole ground of jurisdiction, in as much as the first respondent has no jurisdiction when it was agreed between the parties that all disputes arising out of

the Hire Purchase agreement shall be subject to the jurisdiction of the Courts in City of Chennai.

7. I carefully considered the said submission. Section 51 of the Motor Vehicles Act, 1988 contains special provisions regarding motor vehicle subject to hire-purchase agreement, etc., Section 51(6) reads as under:

The registered owner shall, before applying to the appropriate authority, for the renewal of a permit under section 81 or for the issue of duplicate certificate of registration under Sub-section(14) of Section 41, or for the assignment of a new registration mark (Under Section 47, or removal of the vehicle to another State, or at the time of conversion of the vehicle from one class to another, or for issue of no objection certificate under section 48, or for change of residence or place of business under section 49, or for the alteration of the vehicle under section 52, make an application) to the person with whom the registered owner has entered into the said agreement (such person being hereafter in this Section referred to as the financier) for the issue of a no Objection certificate (hereinafter in this section referred to as the certificate).

Explanation - For this purposes of this sub-section and sub-section(8) and (9), "appropriate authority", in relation to any permit, means the authority which is authorised by this Act to renew such permit and, in relation to registration means the authority which is authorised by this Act to issue duplicate certificate of registration or to assign a new registration mark.

8. In this case, the 3rd respondent has applied for issuance of No Objection Certificate, but the writ petitioner refused to issue the said certificate. In that event, the remedy open to the 3rd respondent was to move the authority under the Motor Vehicles Act, 1988. Instead of doing so the 3rd respondent filed a petition before the first respondent who is only an authority under the provisions of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

9. It is the first respondent who has passed the impugned order and not the appropriate authority under the Motor Vehicles Act. The first respondent has no jurisdiction to direct the petitioner herein to issue the No Objection Certificate in favour of the 3rd respondent. Therefore, the order passed by the first respondent is hereby quashed. Accordingly, the writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

smn

To.

1. The Special Tahsildar,
Office of the District Collector,
Chennai - 1.
2. The Regional Transport Officer,
Tiruvallur.

+1cc to Mrs.A.L. Gandhimathi , Advocate SR.No. 35098

W.P.No. 24286 of 2007

and

M.P.No.1 of 2007

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A.SK(15/07/2019)

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