

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 02.08.2019

CORAM::
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.9087 of 2019
& W.M.P.No.9617 of 2019

Mr.E.Boopalan,
S/o.Ezhilarasan,
Residing at No.49 X,
Arichandran Koil Street,
Kumarasamypet, Dharmapurai Post,
Dharmapuri - 636 701.

... Petitioner

/Verus/

1. The Regional Transport Office,
Palacode, Dharmapuri District.
2. The Regional Transport Officer,
Dharmapuri, Dharmapuri District.
3. HDB Financial Services Ltd.,
Registered Office at, Rathika,
2nd Floor, Law Garden Road,
Navrangpura, Ahmedabad - 380 009.
4. The Collection Manager
Br.Office at, No.105/57, 2nd Floor,
General Peters Road, L.A.Plaza,
Mound Road, Chennai - 600 002.
5. C.Natarajan,
D.No.5565, No.5/287,
Chinnavarattampatty Annamalaihalli,
Palacode, TK Dharamapuri - 686 808.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the Respondents 1 & 2 to issue Registration Certificate of Lorry Bearing No.TN 29 BW 0880 on the name of the petitioner Mr.E.Boopalan within a stipulated time.

For Petitioner : Mr.C.Umashankar

For R1 & R2 : Mrs.P.Rajalakshmi,
Additional Government Pleader

For R3 & R4 : Mr.Arunachalam

O R D E R

Heard the learned counsel for the petitioner and the Learned Additional Government Advocate appearing for the respondents 1 and 2. Mr.M.Arunachalam, Learned Counsel appearing for the respondents 3 and 4. Despite notice to the 5th respondent, there is no representation/private party.

2. It is a case where the petitioner herein has purchased lorry bearing registration No.TN-29-BW-0880 from the 3rd respondent/ HDB Finance Service Ltd, which its having the branch at Chennai and represented by the Collection Manager, HDB Financial Service Ltd/4th respondent.

3. The case of the petitioner is that though he has purchased the vehicle from the financier, the vehicle stands in the name of the 5th respondent/C.Natarajan, as a registered owner and hypothecated to the 3rd respondent/HDB Financial Service Ltd. Due to default of payment, the vehicle has been seized by the 3rd respondent/HDB Financial Service Ltd., from the possession of the 5th respondent/C.Natarajan and sold to the petitioner. When the requisite application was given with "No Objection Certificate" from the Financier for name transfer, the 2nd respondent has not effect the name transfer.

4. The learned Government Advocate appearing for the respondents would submit that the petitioner has not submitted Form-36 duly signed by the Financier for name transfer and issuance of fresh R.C. He has furnished Form-35 which will delete the hypothecation endorsement but for effecting name transfer, separate application under Form-36 should have been produced. It is also further submitted by the Learned Government Advocate for the respondents that the registered owner, who is the 5th respondent/C.Natarajan, has given a letter of objection for transfer of name.

5. In the said circumstances, it is necessary to direct the petitioner herein to submit necessary form obtained from the Financier, as per Section 51(5). On receipt of the application the respondent shall consider name transfer and issuance of fresh certificate after following the procedure contemplated under Section 51(5). The 2nd respondent/Regional Transport Officer, Dharmapurai, shall pass appropriate order, within a period of four weeks, from today. The HDB Financial Service Ltd/3rd respondent who has received the money from the petitioner towards the sale consideration of the lorry is directed to furnish Form-36 duly signed, to the petitioner herein, for further proceedings.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Regional Transport Office,
Palacode, Dharmapuri District.
2. The Regional Transport Officer,
Dharmapuri, Dharmapuri District.

+1cc to Mr.C.Uma Shankar, Advocate, S.R.No.66865
+1cc to the Government Pleader, S.R.No.66732
+1cc to Mr.M.Arunachalam, Advocate, S.R.No.9758 (07/08/2019)

W.P.No.9087 of 2019

RRS(06/08/2019)