

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE P.KESHAHA RAO

Writ Petition No.4585 of 2019

ORDER: *(per V. Ramasubramanian, J)*

Aggrieved by the seizure of a hypothecated car and the attempt made by the Bank to bring the car to sale, the borrower has come up with the above Writ Petition.

2. Heard Mr.Gargeya, learned Counsel for the petitioner, and Mr.Maruti Jadav representing Pearls Law Associates, learned Counsel for the respondent-Bank.

3. The seizure of the vehicle is actually in terms of the deed of hypothecation executed by the petitioner in favour of the bank. The fact that the petitioner availed a vehicle loan, purchased a car and committed default, are all not disputed. Therefore, the exercise of the power by the Bank in terms of the hypothecation agreement cannot really be found fault with.

4. However, the learned Counsel for the petitioner submitted that his client is prepared to pay the entire amount due in four(4) instalments. If that is so, some concession can be shown.

5. Therefore, the Writ Petition is disposed of to the following effect:

- 1) The petitioner shall pay the entire amount due together with past and future interest, in four (4) Equal Monthly Instalments. The first such instalment shall be paid on or before 08.04.2019.

The second instalment shall be paid on or before 06.05.2019, and the 3rd and 4th instalments shall be paid respectively on or before 03.06.2018 and 01.07.2019.

- 2) If the petitioner makes payment of the first two (2) instalments, the Bank may handover possession of the vehicle back to the petitioner.
- 3) If the petitioner fails to comply with the payment even of the first instalment, the bank may proceed with the auction sale of the vehicle.
- 4) If after making payment of the first two(2) instalments and taking possession of the vehicle, the petitioner commits default in making payment of the 3rd instalment, the bank may again take possession of the vehicle and proceed to sell it.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

March 14, 2019
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