



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.21155 of 2019

N.Balasubramani

... Petitioner

Vs

1.The Manager,
Reserve Bank of India,
Chennai-1.

2.The Superintendent of Police,
Dindigul District,
Dindigul.

3.The Sub Inspector of Police,
Thadikumbu Police Station,
Thadikumbu,
Dindigul District.

4.The Branch Manager,
Shriram Transport Finance Company Ltd.,
No.4B, City Union Bank Upstarts,
New Agraharam,
Palani Road,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to take action against the fourth respondent for forcibly taken away the petitioner's vehicle bearing registration No.TN 39 AZ 0696 and TN 39 V 7576 and further, directing the respondents 2 and 3 for recovering the same from the fourth respondent and hand over to the petitioner based on petitioner's representation dated 24.06.2019.

For Petitioner	:	Mr.G.Gomathi Sankar
For R1 to R3	:	Mrs.S.Srimathy Special Government Pleader
For R4	:	Mr.Ananth C.Rajesh

ORDER

Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for R1 to R3 and the learned Standing Counsel appearing for the fourth respondent Financier.



2.It is seen that the petitioner had availed loan from the fourth respondent Finance Company for purchasing the petition mentioned vehicles. There is a factual controversy between the two with regard to the repayment made by the petitioner.

3.It is not in dispute that the vehicles in question were seized.The petitioner wants this Court to direct the authorities to take action against the fourth respondent for having illegally taken away the petition mentioned vehicles.

4.The stand of the fourth respondent is set out in Paragraph Nos.5 and 6 of the counter affidavit filed by them. It reads as follows:-

"5.I submit that since the petitioner failed to honour the demand notice, the vehicles were possessed by our officials on 29.12.2017. The repossessed intimation was given to the petitioner as well as the third respondent police through registered post on 01.01.2018. The repossessed vehicles were kept in the vehicle Yard for nearly six months and the petitioner has not taken any steps to get back his vehicles. In view of the above, we sold the vehicles through public auction by issuing notification in the Malai Malar dated 23.05.2018 and it was sold on 01.06.2018 for Rs.4,00,000/- for the vehicle bearing Registration No.TN 39AZ 0696 and for the vehicle bearing Registration No.TN 39 V 7576. It was sold on 27.09.2018 for Rs.2,12,000/-. The sale considerations were adjusted in the respective loan accounts on 01.06.2018 and 27.09.2018 respectively.

6.I submit that after the above, for the recovery of the balance due amount, we have sent a legal notice to the petitioner on 08.12.2018 requesting him to pay the balance due amount of Rs.5,66,664/- and Rs.2,55,418/- respectively. The writ petitioner having received the above said legal notice on 10.12.2018, failed to pay the above due amounts. The writ petitioner suppressed all the above materials facts in the above writ petition and hence, the writ petition is liable to be dismissed in limine. Apart from the above, the repossessed vehicles were sold through public auction on 01.06.2018 and 27.09.2018 respectively and now the third parties rights are involved in the above vehicles. Hence, before filing the above writ petition itself, the prayer become infructuous."

5.I am afraid that I am not in a position to grant the relief sought for by the petitioner. Essentially, the petitioner seeks relief against the fourth respondent herein. The writ petition against the private financier is clearly not maintainable. This issue has already been settled in W.P(MD)No.4030 of 2013 dated 26.03.2013. The said order was affirmed by the Hon'ble Division Bench also in W.A(MD)No.389 of 2013 dated 21.03.2017. If the



petitioner wants the police authority to take action against the fourth respondent, it is for him to move the Criminal Court. It has been held that even such a relief cannot be availed under Section 482 of Cr.P.C., That being so, filing Writ Petition is not a proper remedy. The dispute between the petitioner and the fourth respondent is essentially contractual in nature.

6.The learned counsel appearing for the fourth respondent points out that contract provides for an arbitral remedy also.

7.It is for the petitioner to avail those remedies. Public law remedy is clearly not available in a case of this nature. It is essentially a private dispute between the petitioner and the fourth respondent. Therefore, leaving open the rights of the petitioner to work out his remedy as per law, the Writ Petition stands dismissed. I make it clear that I have not gone into the merits of the matter. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmi

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Manager,
Reserve Bank of India,Chennai-1.

2.The Superintendent of Police,
Dindigul District,Dindigul.

3.The Sub Inspector of Police,
Thadikumbu Police Station,
Thadikumbu,Dindigul District.

+1 CC to M/s.ANANTH C.RAJESH,Advocate (SR-13201[F] dated 23/07/2020)

W.P. (MD)No.21155 of 2019

AP (30.07.2020) 3P-5C