



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 860 of 2021

and

W.M.P (MD) .No.714 of 2021

Sudalimuthu

... Petitioner

-Vs-

1.The Regional Transport Officer,
Regional Transport Office,
Tirunelveli.

2.The Inspector of Police,
Sivalaperi Police Station,
Sivalaperi,
Tirunelveli District.

3.The Branch Manager,
Shriram Transport Finance Ltd.,
25 M P M Shopping Complex,
Tirunelveli 627 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent not to cancel or transfer the registration certificate in vehicle number TN-72BK-1171, based on the petitioner's representation, dated 17.12.2020.

For Petitioner : Mr.J.Senthil Kumar

For Respondents : Mr.D.Ghandiraj

Government Advocate for R1 & R2

R3 : No Appearance

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the first respondent not to cancel or transfer the registration certificate in vehicle No.TN-72BK-1171, based on the petitioner's representation, dated 17.12.2020.

2.Though it is the case of the petitioner that, he purchased a JCB machine, which got registered with registration No.TN-72BK-1171 at the concerned RTO office, it seems that the vehicle was purchased by the petitioner by availing the financial assistance from the third respondent, and in this context, it is the case of the petitioner that the petitioner has paid back the entire loan amount to the third respondent, however, it seems that there has been some due payable to the third respondent, and in this context, the third



respondent seems to have approached the RTO for name transfer of the vehicle in the registration certificate.

3.Only in that context, the petitioner, after coming to know that the vehicle in question, since has been taken by the third respondent, for the purpose of registering the same in his name, has approached the first respondent after giving complaint to the second respondent on 17.12.2020, seeking the first respondent not to register in RC book the name of the third respondent, without the knowledge of the petitioner, and the said representation and request, dated 17.12.2020 of the petitioner since has not been considered, according to the petitioner, he has approached this Court by filing the present writ petition with the aforesaid prayer.

4.Heard Mr.J.Senthil Kumar, learned counsel appearing for the petitioner, who, after having reiterated the aforesaid, would seek indulgence of this Court to issue a mandamus.

5.Heard Mr.D.Ghandiraj, learned Government Advocate appearing for the respondents, who has relied upon the following averments made in the counter affidavit filed by the first respondent:

"5.I respectfully submit that the averments in Para 6 regarding the judgment of Hon'ble Apex Court reported in 2007(2) SCC 711 is the guidelines given by the Hon'ble Supreme Court to the authorities concerned. I respectfully submit that the petitioner has made a representation, dated 17.12.2020, requesting not to effect name transfer in respect of JCB bearing registration No.TN 72 BK 1171 from his name to any one's name. I respectfully submit that on receipt of the said representation of the petitioner, we have made entry in the registration Certificate and Blacklisted the vehicle on 21.12.2020.

6.I respectfully submit that this respondent has to act as per Sec.51(5) of Motor Vehicles Act, if an application in Form 36 to effect name transfer is filed in a prescribed form and effect name transfer as per express provisions of law and after conducting enquiry with the petitioner and 3rd respondent. I respectfully submit that the petitioner has no right or authority to seek a relief against this respondent restraining this respondent from doing their statutory duty. I respectfully submit that it is a bounden duty of this respondent to effect name transfer of any vehicle, if it is produced with all proper documents and attached with requisite forms. I respectfully submit that as the prayer of the petitioner is not to effect name transfer, if submitted by the 3rd respondent, would be



against the express provisions of law. I respectfully submit that the petitioner is not entitled for the interim relief claimed as well as the main relief sought for by him. I respectfully submit that if any application is submitted for name transfer, we will issue notice to the petitioner and enquire him before effecting name transfer. Hence, the present writ petition filed for issuance of Writ Mandamus is not maintainable in law and liable to be dismissed".

6.By relying upon the said averments, the learned Government Advocate would submit that, if at all any application is submitted either by third respondent or any other person seeking for transfer of name in the registration certificate, by taking into account the representation submitted by the petitioner, notice would be given to the petitioner, and after enquiring the petitioner, needful would be done under the provisions of the Motor Vehicles Act, strictly in accordance with law. Therefore, the petitioner need not have any apprehension that the first respondent would act upon against the law, or in this context, it is for the first respondent after enquiry with the parties concerned to decide as to whether the person, who seeks such transfer of registration certificate is entitled to have such a transfer in the eye of law.

7.The said submissions made by the learned counsel appearing for the parties were heard and I have perused the materials placed before this Court.

8.Since the stand has been taken by the respondent that, if any application to transfer the registration certificate comes from third respondent the same would be enquired into, and in this regard, after issuing notice to the petitioner and hearing him only, the decision would be taken in accordance with the provisions of the Motor Vehicles Act, recording the said stand taken by the learned Government Advocate, this Court is inclined to dispose of this writ petition with the following order:

"that the first respondent is hereby directed to consider the request of the petitioner dated 17.12.2020, and accordingly issue notice to the petitioner, if any application for transfer of RC book comes from third respondent or already filed any such application by third respondent, and in this regard, after hearing the views or objections of the petitioner, the needful can be done on any such application already been filed or to be filed by the third respondent with regard to the transfer of RC book, on merits and in accordance with the provisions of the Motor Vehicles Act."



9. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

WEB COPY

Assistant Registrar (AD I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

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 Regional Transport Officer,
Regional Transport Office,
Tirunelveli.

2. The Inspector of Police,
Sivalaperi Police Station,
Sivalaperi, Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-28324[F] dated 07/09/2021)

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MGJ(28.10.2021) 4P 4C