

September 5, 2022
ARDR
(538)

WPA 18342 of 2022

Sanjib De
Vs.
The State of West Bengal & Ors.

Mr. Sanat Kumar Ray,
Mr. Abhishek Banerjee

...for the petitioner.

Mr. Ritwik Pattanayak,

...for the respondent nos. 4,5 & 7.

Mr. Amal Kumar Sen,
Mr. Jaladhi Das,

...for the State.

Affidavit of service filed by the petitioner is taken
on record.

None appears for the 6th respondent despite
service.

It is contended on behalf of the petitioner that the
petitioner purchased a vehicle bearing no. WB33C-7786
upon taking loan from the Contai Cooperative Bank Ltd.,
Belda Branch by virtue of a hypothecation agreement
executed on 13th July, 2015 followed by a power of
attorney executed in compliance with the norms of the
bank. Upon failure of the 6th respondent to repay the
said loan, the bank took possession of the vehicle from
the 6th respondent on 16th March, 2020 in terms of the
hypothecation agreement and floated public auction for
sale of the vehicle on 13th July, 2020 which was duly
published in the newspaper. Being a successful bidder in
the said public auction, the vehicle was sold to the

petitioner through a private contract by the bank at a consideration of Rs.9,50,000/- and sale certificate was issued in his favour on 6th November, 2020 after handing over possession of the vehicle to him. The bank also issued a letter to the registering authority, being the 3rd respondent herein for transferring the ownership of the vehicle in the name of the petitioner.

The registering authority was unable to register the vehicle in the petitioner's name on account of a writ petition filed by the private respondent before this Court. By an order passed on 29th August, 2022 in WPA 19690 of 2021, a coordinate Bench of this Court disposed of the writ petition declining to interfere with the subsequent sale. The Court further held that there was no illegality and irregularity in the procedure adopted by the cooperative bank.

In the present writ petition, the writ petitioner has prayed for issuance of a writ in the nature of mandamus commanding the 2nd and 3rd respondent to take immediate steps for endorsement of transfer of ownership of the vehicle in the name of the petitioner on the basis of the letter annexing documents furnished by the bank in this regard subject to compliance of formalities by the petitioner.

Learned counsel has referred to Section 51(5) of the Motor Vehicles Act, 1988 and has submitted that the

said provision ought to be complied with by the 3rd respondent at the earliest.

It is submitted on behalf of the respondents that the 3rd respondent be directed to act in terms of prayers (a) and (b) of the writ petition in accordance with law.

In view of the above, the writ petition is disposed of directing the 3rd respondent to consider and dispose of the representation submitted by the petitioner before the authority on 24th August, 2021 and take necessary steps for endorsement of the transfer of ownership of the vehicle in the name of the petitioner on the basis of documents furnished by the bank in this regard subject to compliance with all formalities by the petitioner within one month from the date of communication of this order.

With the above directions, WPA 18342 of 2022 is disposed of. There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)