

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C). No.19526 of 2021

Dipti Ranjan Dash.

....

Petitioner

-versus-

State of Odisha & others.

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER
08.04.2022

Order No.

05.

1. This matter is taken up through Hybrid mode.
2. Heard the learned counsel for the parties.
3. The grievance of the petitioner in this writ petition is that the JCB bearing registration No.OD-19F-5566, which was financed by the opposite party no.3, has been purchased from the opposite party no.4 on intimation to the opposite party no.3-financier. The opposite party no.3-financier in the meanwhile has also assigned the loan to him. But, the petitioner though took steps to get the JCB registered in his name which is standing in the name of the original loanee, i.e., the opposite party no.4, but no step is being taken by the opposite party no.3-financier after taking all the documents from the petitioner.

4. Learned counsel for the opposite party no.3-financier submits that the opposite party no.3-financier is ready and willing to give “No Objection”, if applied for, with regard to transfer of the ownership of the JCB, inasmuch as the loan has already been assigned to him, but he requires to clear all the outstanding dues as on date. The petitioner without giving any documents, after taking the JCB on the consent of the opposite party no.3 from the possession of the opposite party no.4 pursuant to a sale when the outstanding is more than Rs.4,27,000/- has come to this Court seeking the aforesaid direction on a false and frivolous allegation.

5. Learned counsel for the opposite party no.4 would submit that the opposite party no.4 has handed over all the documents to the petitioner. However, if at all the petitioner has lost his documents, he is ready and willing to cooperate him by signing in the appropriate paper as required for transfer of the ownership of the JCB in question to his name.

6. Taking into consideration the aforesaid facts and situation and also the fact that the petitioner is unable to ply the JCB purchased from the opposite party no.4, this Court dispose of this writ petition with a direction to the opposite party no.3 to give “No Objection” subject to payment of 50% of the outstanding amount by the petitioner, for transfer of the ownership of the JCB in question and also sign in the necessary papers as required for cancellation of earlier registration in the

name of the opposite party no.4 and transfer or registration of the same by the R.T.O. concerned in the name of the opposite party no.3 with the note of hypothecation. This Court further directs that if the original registration certificate in respect of the JCB in question has been lost in the meanwhile which is required for the purpose, the petitioner may approach the Transport Authority for duplicate / certified copy of the same, to which Mr. P. Behera, learned counsel for the Transport Department submits that within ten days of such application, the Transport Authority shall provide the same on payment of the fees required. Petitioner no.4 also agrees to sign on the necessary application and documents. Mr. Behera further submits that if the papers are submitted thereafter as required, especially the "No Objection" of the financier, the Transport Authority shall act on the same and make necessary transfer of the registration with the note of hypothecation on payment of the dues of the Transport Authority.

7. It is made clear that since the loan amount is stated to be still outstanding, the same shall be cleared in eight equal installments by the petitioner.

8. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

MRS