

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 29678 OF 2022

Debasish Barik

....

Petitioner

Mr. Braja Mohan Sarangi, Advocate

-versus-

***Regional Manager, R.B.I.,
Bhubaneswar and others***

....

Opp. Parties

Mr. S. Sourav, Advocate
(For Opposite Party No.2)

**CORAM:
JUSTICE K.R. MOHAPATRA**

ORDER

19.04.2023

Order No.

I.A. No. 16737 of 2022

3.
 1. This matter is taken up through hybrid mode.
 2. This is an application for recall of the order dated 11th November, 2022 by which the writ petition was disposed of and also for imposing appropriate cost for deliberate suppression of material facts.
 3. Mr. Sourav, learned counsel for the Opposite Party No.2- Financer submits that although the averments were taken by the Petitioner with regard to sale of the vehicle, but no submission to that effect was made at the time of disposal of the writ petition. As such, this Court vide order dated 11th November, 2022 directed for release of the vehicle in question on deposit of 50% of the total outstanding dues along with compliance of other directions. Since the vehicle in question had already been sold by the time the order sought to be recalled was passed, the same is not available to be released in favour of the Petitioner.

4. Mr. Sarangi, learned counsel for the Petitioner relying upon the order dated 29th September, 2020 passed by this Court in W.P.(C) No.24417 of 2020 submits that since the vehicle in question has been sold without complying with Section 51(5) of the Motor Vehicles Act, 1988, the sale itself is void *abinitio*. Hence, there is no impediment on the part of the Opposite Party No.2-Financer to release the vehicle in favour of the Petitioner. Hence, he prays for dismissal of the I.A.

5. Considering the submissions made by learned counsel for the parties and on perusal of the record, it appears that although a plea was taken by the Petitioner at paragraph-5 of the writ petition to the effect that the vehicle in question has already been sold, but the same was not brought to the notice of this Court at the time of final adjudication of the writ petition. As such, the writ petition was disposed of directing to release the vehicle bearing Registration No.OD-05-BA-8777 (Truck) in favour of the Petitioner subject to deposit of 50% of the total outstanding dues along with compliance of other directions.

6. Since the vehicle in question had already been sold by the time the order sought to be recalled was passed, the same cannot be given effect to. As such, the order dated 11th November, 2022 by which the writ petition was disposed of is recalled and the writ petition stands dismissed.

7. The I.A. is accordingly disposed of.

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

(K.R. Mohapatra)
Judge

bks