

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4075 OF 2019

DCB BANK LIMITED THROUGH AUTHORIZED SIGNATORY
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. A.V. Indrale Patil
AGP for Respondent/State : Mr. K.N. Lokhande
Advocate for Respondent No.3 : Mr. V.G. Kodale

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**CORAM : MANGESH S. PATIL AND
SANDEEP V. MARNE, JJ.**

DATE : 20.09.2022

PER COURT :

The petitioner is a bank with whom the vehicle was hypothecated by the respondent No.3 borrower. The petitioner bank claiming to have taken over possession submitted an application with the Road Transport Authority under Section 51(5) of the Motor Vehicles Act, 1988 (herein after the Act) in the prescribed proforma.

2. Section 51(5) of the Act reads as under :

“51. Special provisions regarding motor vehicle subject to hire-purchase agreement, etc.—

1)

(5) Where the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement, satisfies the registering authority that he has taken possession of the vehicle from the registered owner owing to the default of the registered owner under the provisions of the said agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such

authority may, after giving the registered owner an opportunity to make such representation as he may wish to make by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a fresh certificate of registration in the name of the person with whom the registered owner has entered into the said agreement:

Provided that a fresh certificate of registration shall not be issued in respect of a motor vehicle, unless such person pays the prescribed fee:

Provided further that a fresh certificate of registration issued in respect of a motor vehicle, other than a transport vehicle, shall be valid only for the remaining period for which the certificate cancelled under this sub-section would have been in force.”

3. During the course of argument it transpires that some dispute *enter se* between the petitioner and the respondent No.3 still linger. We cannot venture into that.

4. We dispose of the writ petition by directing the respondent No.2 to decide the application of the petitioner on its own merits in terms of the provision contained in Section 51(5) of the Act by extending an opportunity of being heard to the petitioner and also respondent No.3. The decision shall be taken as early as possible and in any case within 6 weeks from today. They shall appear before the respondent No.2 on 03.10.2022.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)