IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM

**THE HONOURABLE MR. JUSTICE S.S.SUNDAR**

W.P.No.15404 of 2015

M.Mahalakshmi ...Petitioner

-Vs-

1.The Branch Manager,
Indian Bank,
165, Kutchery Street,
Kattumannarkoil,
Cuddalore District.

2.Sakthivel ...Respondents

**Prayer:-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 1st respondent to issue No Objection Certificate to the petitioner for the vehicle namely Mahindra Tourist Maxi Cab- Van bearing Registration No.TN-31-AM-5968 in respect of the loan in THADCO loan No 606228095.

For Petitioner : Mr.G.Pugazhenthi

For R1 : Mr.R.John Joseph
for Mr.O.S.Karthikeyan

For R2 : No appearance

**O R D E R**

This writ petition is filed for issuance of a writ of mandamus directing the 1st respondent to issue No Objection Certificate to the petitioner for the vehicle namely Mahindra Tourist Maxi Cab - Van bearing Registration No.TN-31-AM-5968 in respect of the loan in THADCO Loan No. 606228095.

2. The petitioner admits that the vehicle referred to above was originally purchased by the 2nd respondent with the financial assistance of the 1st respondent's bank during September, 2012. However, it is stated by the petitioner that the 2nd respondent could not make monthly instalments towards repayment of the loan to the 1st respondent and hence he offered to sell the vehicle to the petitioner. The 2nd respondent and the petitioner entered into an Agreement dated 16.09.2012 wherein it was agreed that petitioner would repay the entire loan amount of Rs.6,00,000/- to the 1st respondent on behalf of the 2nd respondent and paid the remaining sale price of Rs.4,00,000/- to the 1st respondent. The payment of loan amount and settlement of dues to the 1st respondent is not disputed. However, it is stated by the 1st respondent that the

payments were received from the 2nd respondent and that the 1st respondent bank has no obligation to issue the No Objection Certificate to the petitioner for the vehicle as the petitioner is a third party to the loan agreement between the 1st and 2nd respondents.

3. In the counter affidavit it is admitted that the entire sum of Rs.8,10,000/- with a subsidy of Rs.2,64,500/- had been settled. However, it is stated by the 1st respondent in the counter that the petitioner is neither the borrower nor the guarantor and in no way connected with the loan availed by the 2nd respondent. It is further stated that there is no contract between the petitioner and the 1st respondent and the contract between the petitioner and 2nd respondent without the consent of bank will not bind the 1st respondent bank. Admittedly the petitioner has purchased vehicle from the 2nd respondent. Though it is disputed that the amounts had been paid by the petitioner towards discharge of the loan, from the stand taken by the petitioner that he had purchased the vehicle from the 2nd respondent, this Court is unable to accept the case of the 1st respondent that the payments were actually made by the 2nd respondent to the bank. Be that as it may, the petitioner is now the owner of the

vehicle. Though there is no contract between the petitioner and the 1st respondent, by virtue of the sale, this Court is unable to accept the case of the 1st respondent that the petitioner has no right to approach the 1st respondent for issuing receipt or No Objection Certificate acknowledging the settlement of loan amount and the receipt of remaining dues under the said loan transaction. The 2nd respondent, despite notice did not contest this writ petition. When the loan account is closed, the bank has no lien over the vehicle. However a no objection may be required to remove the "H.P" endorsement in the R.C. Book. The request of petitioner as a representation in interest of 2nd respondent cannot be rejected. Unless there is specific Bar under any statute, the 1st respondent is under a legal obligation to give No Due Certificate.

4. Accordingly, the writ petition is allowed and a direction is issued to the 1st respondent to give No Objection Certificate or No Due Certificate to the petitioner, by considering the representation of the petitioner dated 31.10.2014. The 1st respondent shall also cooperate with the petitioner for issuing the required form with the signature and seal of the 1st respondent's bank so that the petitioner would be in a position to remove the hypothecation endorsement and to get the vehicle registered in his name. The 1st respondent shall also hand over

the duplicate key of the vehicle pursuant to the agreement entered with the 2nd respondent if the bank has it. No costs.

09.11.2022

cda

To

The Branch Manager,
Indian Bank,
165, Kutchery Street,
Kattumannarkoil,
Cuddalore District.

**S.S.SUNDAR. J.,**

cda

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