



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

WP.No.34176 of 2013

M/s.Fullerton India Credit Company Limited,
"Megh Towers" 3rd Floor,
Old No.30, New No.165,
Poonamalee High Road,
Maduravoyal, Chennai-600 095.

.. Petitioner

Vs.

1. The Transport Commissioner,
Ezhilagam Complex,
Chepauk, Chennai-600 005.
2. The Regional Transport Officer.
Ranipet, Vellore District.

.. Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, or any other appropriate writ, order or direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the proceedings of the 2nd respondent dated 21.11.2013 made in Na.Ka.No.A2/22364/2013 and quash the same consequently directed the 2nd respondent to issue fresh certificate of registration to the petitioner's vehicle bearing registration No.TN-37-C-5558 based on the petitioner's application dated 22.05.2013.

For Petitioner : No Appearance

For Respondent : Mr.P.Sanjai Gandhi



O R D E R

When the above writ petition taken up for hearing on 08.06.2022, there was no representation for the petitioner. In order to give an opportunity to the petitioner, the matter was adjourned to 08.06.2022 under the caption "for orders". When the matter was taken up today for hearing at about 2.15 P.M. there was no representation for the petitioner and hence the same was passed over. The matter was again called for the second time today at about 3.35 P.M.. Again there was no representation for the petitioner. Mr.P.Sanjai Gandhi, the learned Government Advocate appearing for the respondents is present. In spite of several opportunities, the petitioner has not appeared before this Court, therefore, this Court proceed to dispose of the writ petition by perusing the affidavit, typed set of papers and the counter affidavit.

2. Heard the submissions of the learned counsel for the respondents.

3.The writ petition has been filed by the petitioner challenging the order passed by the 2nd respondent rejecting his application for issue of new registration certificate for vehicle bearing the registration No.TN 73 C 5558 and also for consequential direction to second respondent to issue fresh certificate of registration to the petitioner's vehicle. According to the petitioner as found in the affidavit filed in respect of the writ petition, the petitioner's company is engaged in financial business. One E.Mariappan of Arcot had entered into hire purchase agreement with petitioner's company for purchase of Truck, bearing the model TATA-3518 (12 wheeler) and the same was registered on the file of the 2nd respondent with registration No.TN 73 C 5558. The existence of hire purchase agreement with the petitioner was duly entered in the certificate of registration issued to the vehicle. As per Section 2(30) of Motor Vehicles Act 1988, the petitioner is the owner of the vehicle and the said E.Mariappan is the registered owner. The said registered owner failed to repay the loan he availed loan from the petitioner for purchase of the vehicle. As he defaulted in making payment, the petitioner repossessed the vehicle. The petitioner had taken possession of the vehicle as per terms of hire purchase agreement. However the registered owner failed to hand over the original records of the vehicle namely the registration certificate. Since the petitioner decided to sell the vehicle to realize the loan amount the registration certificate is essential document for transferring the same to the 3rd party. In order to obtain a fresh registration certificate, the petitioner submitted an application on 22.05.2013 under Rule 61 (2) of Central Motor Vehicle Rules, 1989 to 2nd respondent. The 2nd respondent issued



notice to the registered owner and he appeared for hearing before 2nd respondent and promised to return the registration certificate, but failed to honour his promise. Therefore, the petitioner made a detailed representation on 24.10.2013 to the first respondent with a prayer to direct the 2nd respondent to issue new certificate of registration. The petitioner relied on Section 51 (5) of Motor Vehicles Act 1988 for issuance of new registration certificate for him. However the 2nd respondent passed the impugned order rejecting the request of the petitioner for issue of a fresh registration certificate on the ground that the repossessed vehicle was not found when the 2nd respondent visited address of the petitioner, though the 2nd respondent was informed that the vehicle was stationed in that place. Consequently the second respondent came to the conclusion that the vehicle in question was not in the custody of the petitioner and rejected his request for new registration of certificate. Aggrieved by the same, the writ petition is filed for the above said relief.

4. The 2nd respondent herein filed a counter wherein he submitted that during his visit to the address of the petitioner, the vehicle in question was not found there. Further it was submitted that the petitioner has not submitted any proof to show that the vehicle in question had been surrendered by the registered owner to the petitioner

5. In the light of the stand taken by the 2nd respondent in the counter that the petitioner has not produced any proof before him that registered owner surrendered the custody of the vehicle to the petitioner and during spot inspection, the vehicle in question was not available in the address of the petitioner, the 2nd respondent is justified in rejecting the claim of the petitioner for issuance of a new registration certificate. Hence the above writ petition is devoid of any merit and liable to be dismissed. However it is made clear that the petitioner is at liberty to seek fresh registration certificate from the 2nd respondent by producing proof for having taken possession of the vehicle from the registered owner and his lawful custody over the vehicle. With this liberty the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar



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To

1. The Transport Commissioner,
Ezhilagam Complex,
Chepauk, Chennai-600 005.

2. The Regional Transport Officer.
Ranipet, Vellore District.

+lcc to Government Pleader SR. No. 35920

WP.No.34176 of 2013

PMK (CO)

PR (29/06/2022)