



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13555 of 2020

and

W.M.P.No.16807 of 2020

S.Jayamani

...Petitioner

vs.

1. The Regional Director,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
Chennai - 600 001.
2. The Manager,
HDB Finance Services,
Having registered office at
Rashika, 2nd Floor,
Law Garden Road, Navrangpura,
Ahmedabad, Gujarat - 380 009.
3. The Regional Manager,
HDB Finance Services,
Mullai Nagar, PM Nagar,
Seelanaicken Patti, Salem-636 006.
4. The Branch Manager,
HDB Finance Services,
Ponnusamy Gounder Complex,
Thiruchengodu Main Road,
Sankari - 637 301.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to take appropriate action against the respondents 2 to 4 and direct the respondents 2 to 4 to return the vehicle namely "Multi Axle Goods Vehicle" Ashok Leyland bearing Registration No.TN 52 C 0525 to the Petitioner within the time to be stipulated.

For Petitioner : Mr.S.Venkatesh



ORDER

This writ petition has been filed by the petitioner for issuance of a Writ of Mandamus to direct the 1st respondent to take appropriate action against the respondents 2 to 4 and direct the respondents 2 to 4 to return the vehicle namely "Multi Axle Goods Vehicle" Ashok Leyland bearing Registration No.TN 52 C 0525 to the Petitioner within the time to be stipulated.

2. The case of the petitioner is that she availed a vehicle loan of Rs.11,50,000/- from the 4th respondent and had executed a Loan Agreement dated 31.01.2019 in favour of HDB Finance Services/respondents 2 to 3 herein. The petitioner has to repay the loan amount in 46 equated monthly installments of Rs.36,030,- and the petitioner started to pay the monthly installment from 10.03.2019 and paid monthly installment regularly for 14 months and has totally paid a sum of Rs.5,04,420/-. While being so, due to Covid-19 pandemic and lock down, the petitioner was unable to do transport business and has not paid the monthly installments during the period March to May 2020 and committed default in payment of monthly installments. However, the petitioner started to pay the monthly installment from June 2020 and the same was also received by the 4th respondent without any objection.

3. While so, when the petitioner's vehicle was engaged in transport business with one Consignee Barda Bindhu Tea Industries, the respondent bank's Recovery agents threatened the driver and taken away the vehicle without any possession note and the respondent bank without issuing any prior notice to the petitioner regarding the non-payment of monthly installments, have seized the vehicle. And thereafter, the petitioner received a letter from the respondent bank regarding the repossession of Tea Powder container on 04.09.2020, and the said Consignee Barda Bindhu Tea Industries, Coonor made a complaint against the petitioner and driver for misplacing the container. Hence, this Writ Petition is filed seeking for direction to release the petitioner's vehicle.

4. The learned counsel for the petitioner submitted that the petitioner was unable to pay the monthly installment during the period of March to May 2020 due to pandemic situation and lock down restrictions and the respondent bank's Recovery agents threatened the driver and taken away the vehicle without any possession note and the respondent bank without issuing any prior notice to the petitioner regarding the non-payment of monthly installments, have seized the vehicle, which is illegal. Hence, he submitted that, it would suffice, if this Court issues direction to the respondent 2-4 to return the



petitioner's vehicle namely "Multi Axle Goods Vehicle" Ashok Leyland bearing Registration No.TN 52 C 0525 within the time stipulated by this Court.

5. Considering the facts and circumstances of the case, admittedly, the petitioner has availed a vehicle loan for a sum of Rs.11,50,000/- and has repaid only a sum of Rs.5,04,420/- and has committed default in paying the monthly installment. Hence, as per the agreement dated 31.01.2019, since the petitioner has hypothecated her vehicle as security for borrowing the vehicle loan amount, the same was seized by the respondents 2-4 due to default in payment of monthly installment. Also since no proof/provision was shown by the petitioner to substantiate her stand that the 1st and 2nd respondents has the power to release the vehicle, in the absence of such provision, the prayer sought for by the petitioner cannot be acceded to and no mandamus can be issued.

6. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, liberty is granted to the petitioner to workout her remedy in the manner known to law.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

skt

To:

1. The Regional Director,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
Chennai - 600 001.
2. The Manager,
HDB Finance Services,
Having registered office at
Rashika, 2nd Floor,
Law Garden Road, Navrangpura,
Ahmedabad, Gujarat - 380 009.
3. The Regional Manager,
HDB Finance Services,
Mullai Nagar, PM Nagar,
Seelanaicken Patti, Salem-636 006.



4. The Branch Manager,
HDB Finance Services,
Ponnusamy Gounder Complex,
Thiruchengodu Main Road,
Sankari - 637 301.

WEB COPY

+1 cc to Mr.M.Arunachalam, Advocate Sr.NO. 1035

W.P.No.13555 of 2020
and
W.M.P.No.16807 of 2020

pmk (CO)
A.SK (04.02.2022)