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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.22513 of 2021

M/s. IndusInd Bank Ltd.,
Rep. by its Manager-Legal, N.Veeraragavan,
having office at No.115 & 116,
G.N.Chetty Road, T.Nagar,
Chennai - 600 017.

... Petitioner

Vs.

1.The Joint Transport Commissioner (Rules),
Office of the Transport Commissioner,
Ezhilgam, Chepauk,
Chennai - 600 005.

2.The Regional Transport Officer,
Regional Transport Office,
P.N.Patty (Near Panchayat Office),
Mettur Taluk,
Salem - 636 403.

3.M.Raghupathy

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the second respondent to issue Financer Registration Certificate in the name of the petitioner, M/s.IndusInd Bank Ltd for Commercial Vehicle bearing registration no.TN 93 - 9286 within a time frame that may be fixed by this Court.

For Petitioner : Ms.Meera Gnanasekar

For RR 1 & 2 : Mr.T.K.Saravanan
Government Advocate

For R3 : Mr.G.K.Sekar



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This Writ Petition is filed for a direction to the 2nd respondent to issue Financer Registration Certificate to the petitioner.

2.The petitioner Bank at the request of the 3rd respondent, sanctioned loan to the tune of Rs.37,27,693/- to him. The 3rd respondent availed the loan by executing hypothecation agreement for the commercial vehicle, namely Ashok Leyland make 3718, BS IV Tipper Vehicle bearing Engine No.HVPZ141040, Chassis No.MB1NACHD9HPVA6512 and Registration No.TN 93 9286. The 3rd respondent agreed to repay the said loan amount in equal monthly installment of Rs.63,200/- in 59 installments. The 3rd respondent committed default in re-payment of due amount. In spite of repeated demands, the 3rd respondent did not pay the amount due. Hence, the petitioner seized the vehicle on 18.12.2019 and kept the same in the J.K.Stand Car Parking at Bhavani Main Road, Sangakiri. The 3rd respondent did not hand over the original Registration Certificate of the vehicle to the petitioner. Hence, the petitioner approached the 2nd respondent for issue of Financier Registration Certificate in favour of the petitioner on 12.07.2021 & 18.08.2021. The 2nd respondent informed the petitioner that in view of the pendency of O.S.No.125 of 2020 before the District Munsif Court, Mettur, filed by the 3rd respondent, the request of the petitioner cannot be considered. In such circumstances, the petitioner has come out with the present Writ Petition for the relief sought for above.

3.The learned counsel appearing for the petitioner submitted that the petitioner sold the vehicle to one K.Parimala on 05.08.2020. The suit filed by the 3rd respondent was dismissed for default on 14.09.2021. The learned counsel further submitted that already the vehicle was sold and hence, the prayer in the suit has become infructuous. The 3rd respondent filed suit in O.S.No.125 of 2020 for a decree of permanent injunction restraining the petitioner and its men, agents, servants or anybody on behalf of the petitioner from in any manner selling the multi axle commercial vehicle bearing Registration No.TN 93 9286, for mandatory injunction directing the petitioner to hand over the multi axle commercial vehicle bearing Registration No.TN 93 9286 to the 3rd respondent without any damage and for a



decree of permanent injunction to the 2nd respondent not to cancel the hypothecation. In view of the same, the prayer in the suit has become infructuous and prayed for allowing the Writ Petition.

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4.The 2nd respondent filed counter affidavit and Mr.T.K.Saravanan, learned Government Advocate appearing for the respondents 1 & 2 submitted that due to pendency of the suit filed by the 3rd respondent, the request of the petitioner for issue of Financier Registration Certificate is kept pending.

5.The 3rd respondent filed typed set of papers and the learned counsel appearing for the 3rd respondent submitted that the 3rd respondent has filed application to restore the suit and notice has been ordered to the petitioner and 2nd respondent. The petitioner has initiated arbitration proceedings and the 3rd respondent is contesting the same. The 3rd respondent has paid a sum of Rs.12,00,000/- and the petitioner without taking into consideration the amount paid by the 3rd respondent, seized the vehicle and sold the same to one K.Parimala, which is illegal and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 & 2 as well as the learned counsel appearing for the 3rd respondent and perused the entire materials on record.

7.From the above materials on record, it is seen that the 3rd respondent borrowed money from the petitioner Bank and hypothecated the vehicle bearing Registration No.TN 93 9286 for due repayment of the amount borrowed. The 3rd respondent agreed to repay the amounts in 59 equal monthly installments of Rs.63,200/-. According to the petitioner, the 3rd respondent committed default in repayment of due amount and the petitioner seized the vehicle on 18.12.2019. When the petitioner sought for Financier Registration Certificate from the 2nd respondent, the 2nd respondent did not issue the Financier Registration Certificate and kept the application of the petitioner pending, on the ground that the suit filed by the 3rd respondent in O.S.No.125 of 2020 before the District Munsif Court, Mettur is pending. From the copy of the plaint filed by the 3rd respondent in the typed set of papers, it is seen that the 3rd respondent has sought for permanent injunction restraining the petitioner from selling the vehicle hypothecated to the petitioner. From the documents filed, it is seen that suit was dismissed for default on 14.09.2021 for non-payment of batta to serve the



petitioner and 2nd respondent. It is not the case of the 3rd respondent that he did not commit any default and no amount is due and payable to the petitioner. On the other hand, it is the case of the petitioner that already the petitioner sold the vehicle to one K.Parimala on 05.08.2020 and hence, the relief sought for by the 3rd respondent in the suit has become infructuous. The learned counsel appearing for the petitioner also submitted that they have initiated arbitration proceedings for the balance amount of Rs.8,93,000/-.

8.In view of the above materials, the petitioner is entitled to the relief sought for in the Writ Petition. The 2nd respondent is directed to issue Financier Registration Certificate in the name of the petitioner Bank for the commercial vehicle namely Ashok Leyland make 3718, BS IV Tipper Vehicle bearing Engine No.HVPZ141040, Chassis No.MB1NACHD9HPVA6512 and Registration No.TN 93 9286 within a period of two weeks from the date of receipt of a copy of this order.

9.With the above direction, the Writ Petition is allowed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

krk
To

1.The Joint Transport Commissioner (Rules),
Office of the Transport Commissioner,
Ezhilgam, Chepauk, Chennai - 600 005.

2.The Regional Transport Officer,
Regional Transport Office,
P.N.Patty (Near Panchayat Office),
Mettur Taluk, Salem - 636 403.

+1cc to M/s.Meera Gnanasekar, Advocate Sr.25570
+1cc to Mr.G.K.Sekar, Advocate Sr.25666
+1cc to the Government Pleader Sr.25755

W.P.No.22513 of 2021

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srg 05/05/2022