BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.21783 of 2016

A.Balamurugan ... Petitioner

Vs.

1.The Reserve Bank of India,
represented by its Secretary,
Head Office, Fort Clacis,
Rajaji Salai, Chennai – 600 001.

2.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
Anjugramam Branch,
7/31, Main Road, Anjugramam,
Kanyakumari District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent to hand over the original registration certificate of the vehicle bearing registration No.TN 74 AA 4599 to the petitioner and further, to direct the 2nd respondent to issue a 'no objection certificate' to clear the hypothecation endorsement made in the registration certificate of the vehicle bearing registration No.TN 74 AA 4599 to the petitioner.

For Petitioner : Mr.Vashik Ali
for Mr.R.Murugan
For R1 : Mr.K.Ashok Kumar Ram

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O R D E R

The present writ petition has been filed seeking mandamus directing the second respondent to hand over the original RC book of the vehicle that was seized by them and also to issue NOC to clear the hypothecation endorsement made in the RC book of vehicle bearing the registration No.TN 74 AA 4599.

2.According to the learned Counsel for the petitioner, the load van was hypothecated to the second respondent Bank. Due to the default in the payment of dues, the said vehicle was seized by the second respondent Bank. Thereafter, the petitioner has chosen to file W.P.(MD)No.435 of 2016, seeking Mandamus to return the vehicle. In the said writ petition, the following order was passed on 18.01.2016.

"7. Accordingly, this writ petition is disposed of with the following directions:-

(a) The petitioner shall pay a sum of Rs.3,22,756.40 to the second respondent bank, within seven days from the date of

receipt of a copy of this order.

(b) The petitioner shall also make deposit of Rs. 46,000/- in a fixed deposit account, maintained by the second respondent bank, which he shall not encash till the disposal of the dispute with regard to Rs. 46,000/- by the competent forum.

(c) On making the payment of Rs. 3,22,756.40 and also depositing of Rs. 46,000/- as stated supra by the petitioner, the second respondent bank will release the vehicle forthwith.

(d) The second respondent bank shall not deal with the fixed deposit amount of Rs. 46,000/- in any manner till the dispute is decided in respect of such amount by the competent forum as stated supra.

(e) The petitioner shall initiate appropriate legal proceedings before the competent forum, with regard to the dispute in respect of Rs.46,000/-, within a period of four weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petition is closed."

3.In compliance of the said order, the petitioner had paid the amount and the vehicle was returned to the writ petitioner. The petitioner has deposited a sum of Rs.46,000/- in a fixed deposit. The petitioner was granted liberty to initiate proceedings as against the Bank for recovery of the said amount.

4.The present writ petition has been filed seeking a writ of Mandamus to hand over the original RC book and for issuance of NOC for clearance of hypothecation endorsement. The typed set of papers filed by the petitioner indicate that the fixed deposit for a sum of Rs. 46,000/- is retained in the name of the writ petitioner himself. It has not been credited to the loan amount of the writ petitioner. Hence, according to the learned Counsel for the respondent Bank, as on today, the loan amount to be paid by the writ petitioner is Rs.76,583/-. However, the maturity value of the fixed deposit amount is Rs.70,157/-.

5.On instructions, the learned Counsel for the second respondent Bank submits that the Bank may be permitted to encash the maturity value of the fixed deposit and the same may be treated as full and final settlement of the vehicle loan account. The same is recorded. Hence, as on today, the petitioner is not liable to pay any amount to the second respondent Bank.

6.Since the petitioner has paid the entire loan amount, the second respondent Bank is directed to issue a NOC to clear the hypothecation endorsement relating to the vehicle in dispute. As far as the original RC book is concerned, even as per the averment in paragraph No.3 of the affidavit, the original RC book was in possession of the writ petitioner. However, the writ petitioner contends that when the vehicle was seized by the second respondent Bank it was taken along with the vehicle. But, it was not returned. The said averment is strongly disputed by the second respondent Bank. If the petitioner has lost the original RC book he is at liberty to approach the RTO officials and apply for a duplicate RC book for which the second respondent shall issue NOC.

7.The petitioner has further alleged that his collection amount of Rs.81,000/-, two tarpaulins worth about Rs.15,000/- and ropes worth about Rs.5,000/- were in his vehicle. However, when the vehicle was returned, the said amount or the goods were not returned along with the vehicle. This fact is also strongly disputed by the second respondent Bank. The petitioner is at liberty to approach the competent Civil Court to recover the value of the said goods and also the fixed deposit of Rs.

46,000/-. In case, if the petitioner approaches the Civil Court, the same shall be decided without being influenced by the orders passed by this Court in W.P.(MD)No.435 of 2012 or in W.P.(MD)No.21783 of 2016.

8.On instructions, the learned Counsel for the petitioner also gives his consent for the Bank to realize the fixed deposit account reserving his right to challenge the same before the Civil Court. As far as the recovery to a sum of Rs.46,000/- cause of action for the recovery of the said amount would arise from the date on which the second respondent Bank realizes the maturity amount.

9.With the above said observation, the writ petition stands disposed of. No costs.

03.08.2022

Index : Yes / No
Internet : Yes / No

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R.VIJAYAKUMAR ,J.

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Note :
In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

Order made in
W.P.(MD).No.21783 of 2016

03.08.2022