



W.P.(MD)No.25467 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.25467 of 2022

S.Kaliyammal

... Petitioner

Vs.

The Registering Authority-cum-Regional
Transport Officer,
Kovilpatti,
Thoothukudi District.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the Respondent dated 26.10.2022 in his proceedings in Na.Ka.No.012406/E2/2022 and quash the same and consequently, directing the Respondent to remove the hypothecation endorsement made in RC Book of the Petitioner's vehicle bearing Registration No.TN 96 A0430 TATA 1109 Goods Carrier forthwith.



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For Petitioner : Mr.J.Parekhkumar

For Respondent : Mr.M.Ramesh
Government Advocate

ORDER

Challenging the impugned order dated 26.10.2022, passed by the Respondent and for a consequential direction to the Respondent to remove the hypothecation endorsement made in RC Book of the Petitioner's vehicle bearing Registration No.TN 96 A0430 TATA 1109 Goods Carrier, this Writ Petition has been filed.

2. The impugned order came to be passed on the premise that 'No Objection Certificate' and 'Form-35' from the Financier was not submitted. Further, a complaint has been lodged by the Financier against the Petitioner for recovery of alleged dues in terms of the hypothecation / finance agreement.



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3. It is submitted by the learned counsel for the Petitioner that 'No Objection Certificate' and 'Form-35' has been submitted. However, the impugned order came to be passed disregarding the same which clearly shows non application of mind on the part of the Respondent.

4. It is submitted by the learned Government Advocate for the Respondent that the request / application for removing hypothecation agreement would be examined and the Petitioner may submit a representation indicating that the dispute between the Financier and the Petitioner stands resolved, along with 'No Objection Certificate' and 'Form-35'.

5. It is further submitted by the learned counsel for the Petitioner that he may not be in a position to produce a copy of the 'No Objection Certificate' and 'Form-35' inasmuch as it has already been submitted with the Respondent.



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6. In view of the same, it is open to the Petitioner to submit a representation setting out the above details within a period of two weeks from today. If such representation is made, the Respondent shall re-consider the request of the Petitioner to remove the hypothecation endorsement made in the RC Book of the Petitioner's vehicle on its own merits and pass appropriate orders in accordance with law, within a period of six weeks from the date of receipt of representation of the Petitioner. It is made clear that this Court has not expressed any view with regard to the merits of the representation and it is open to the Respondent to consider the representation on its own merits.

7. With the above directions, this Writ Petition is disposed of. No costs.

17.11.2022

Index : Yes / No

Speaking Order : Yes / No

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Note: Issue order copy by 21.11.2022



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To

The Registering Authority-cum-Regional
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MOHAMMED SHAFFIQ, J.

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