

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

942 WRIT PETITION NO.4252 OF 2023

POPAT BHAGWAN DHAKANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. S R Andhale
AGP for Respondents : Mr. S B Yawalkar

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.
Dated: April 13, 2023

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PER COURT :-

1. The petitioner entered into a hire purchase agreement with the respondent no.3 for purchase of vehicle carrying registration number MH-16/CC-1515.

2. Since the terms of hire purchase agreement was not honoured, respondent no.3 under the said agreement has secured possession of the said vehicle way back in October, 2021.

3. As a sequel of above, petitioner is served with the impugned notices by the respondents authorities under the provisions of the Motor Vehicles Act, 1988 thereby invoking the provisions of sub-section (30) of section 2 and section 51 sub-

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section (5) calling upon the petitioner to surrender original registration certificate.

4. The aforesaid communications issued by the respondents RTO authorities based on the complaint of the respondent no.3 are questioned on the ground that the petitioner continued to be owner of the aforesaid vehicle on record unless registration certificate is cancelled by taking recourse to the provisions of the Motor Vehicles Act, 1988. According to Mr. Andhale, learned counsel appearing for the petitioner, the petitioner is willing to settle the entire account pursuant to the hire purchase agreement provided custody of the vehicle aforesaid is returned to the petitioner in its original form. According to Mr. Andhale, learned counsel, petitioner was not keeping good health for a considerable period. There was default in repaying the installments qua hire purchase agreement and as such this Court must interfere in the matter thereby quashing the order impugned.

5. The Additional Government Pleader Mr. Yawalkar would oppose the prayer. As according to him, action of the

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respondent nos.1 and 2 is in accordance with the provisions of the Motor Vehicles Act, 1988.

6. We have appreciated the said submissions.

7. The existence of hire purchase agreement in relation to the aforesaid vehicle in between the petitioner and respondent no.3 is not a disputed question of fact. There appears to be an entry of execution of hire purchase agreement in the registration book of the aforesaid vehicle.

8. As a sequel of above, in October, 2021 the petitioner for non-payment of the loan amount has lost custody of the same and, till then, as admittedly petitioner has not settled the account with respondent no.3. No doubt, in the light of the aforesaid submissions made by Mr. Andhale, it is always open for the petitioner to approach respondent no.3 for settling down the loan account of hire purchase, however, if we appreciate the impugned communication in the backdrop of scheme, sub-section (30) of section 2 which defines the owner has to be held that the petitioner loses his status as that of registered owner once there being hire purchase agreement

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and has been lost possession of the vehicle to the respondent no.3 for not honoring the terms of the agreement.

9. Apart from above, disputed question of facts viz. non-settlement of the loan account between the petitioner and respondent no.3 cannot be gone into writ jurisdiction.

10. As a sequel of above admitted fact, petitioner has lost possession of the vehicle. Respondent no.3 based on the applicant's hire purchase agreement taken custody of the vehicle.

11. That being so, the impugned communication which are in exercise of the powers under the provisions of sub-section (5) of Section 51 of the Motor Vehicles Act, 1988 appears to be in tune, no interference under writ jurisdiction is called for. Petition stands dismissed.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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