



WEB COPY



W.P. No.5367 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.5367 of 2021 and

W.M.P. No.5960 of 2021

M/s.GESM Environment Services
Rep. by its Director
Mr.M.Vimal
S/o.T.K.Murugesan
2/3 Bowden Street, Cooks Road
Chennai - 600 012

... Petitioner

Vs.

- 1.Union of India
Rep. by the Director (MVL)
Ministry of Road Transport and
Highways (MVL Section)
Transport Bhavan
No.1, Parliament Street
New Delhi - 110 001
- 2.The State of Tamil Nadu
Rep. by its Secretary to Government
Transport Department
Fort St. George
Chennai - 600 009
- 3.India Garage
Rep by its Chief Executive Officer
No.242, Anna Salai
Chennai - 600 006



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4.Nagasubramani.N
General Manager
(Head - Operation)
India Garage
#242, Anna Salai
Chennai - 600 006

5.Managing Director
O/o MDO Office (Corporate Office)
VST Group
1, Palace Cross Road
Bangalore - 560 020

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the respondents 3 to 5 to pay a sum of Rs.10,30,326/- to the petitioner towards sale consideration received from the petitioner in one lumpsum towards the price of BS-IV vehicle for booking and immediate delivery on 25.03.2020 contrary to notification No.RT-11036/16/2018-MVL dated 20.04.2020 issued by the 1st respondent to the 2nd respondent and by suppressing the orders passed by the Hon'ble Supreme Court of India dated 27.03.2020 made in W.P.(C) No.13029 of 1985 and consequential orders by the respondents 3 to 5 forthwith.

For Petitioner : Mr.G.Ethirajulu

For Respondents : Ms.D.Geetha, CGSC for R1
Mr.V.Manoharan, AGP for R2
Mr.S.Raghunathan for R3



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ORDER

The petitioner herein has approached this court essentially for refund of about Rs.4.76 lakhs, which he had paid for purchase of a four wheeler from the third respondent. The vehicle was not delivered and hence the petitioner is before this court. There are about five respondents of whom the relief is sought only against the third respondent, which is a private individual or entity.

2.Heard both sides and perused the materials available on record.

3.It is a classic case of an alleged breach of contract of delivering a manufactured vehicle upon receipt of the sale consideration. This may not be entertained by this court under Article 226 of the Constitution of India for two reasons: (a) It is a matter pertaining to pure contract, and (b) the writ is sought to be issued against the private individuals or entities.

4.Learned counsel for the petitioner submitted that the petitioner has first approached the Consumer Redressal Forum, but the said forum returned the papers, based on certain pronouncement of the Hon'ble Supreme Court vis-a-vis the conversion of vehicle to BS-IV standards.



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5.This court is also now going to show the petitioner another door through which it may have to exit for it to reach the right destination: The Civil court.

6.It is very evident that the petitioner has spent his time before this court since 2021 on the *bona fide* belief that it might obtain remedy from this court. The time lost before this court may have to be necessarily discounted in computing the period of limitation. Subject to what is herein stated above, the writ petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

09.08.2023

Asr
Index : Yes/No
Speaking/Non-speaking order



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3. The Government Pleader
High Court, Madras



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N.SESHASAYEE, J.,

Asr

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