



WEB COPY



W.P.No.12798 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.12798 of 2023 and WMP No.12604 of 2023

M/s.Kotak Mahindra Prime Limited
Represented by its Authorised Signatory
Mr.S.Godson,
6th Floor, Samson Towers, A - wing
420L Pantheon Raod,
Egmore, Chennai 600 008

...Petitioner

Vs

1. The Regional Transport Officer,
G-17, Plot No.3623, New Avadi Road,
Anna Nagar, Chennai 600 040
2. The Regional Transport Officer,
No.660, Regional Transport office Road,
Phase -2, Sathuvachari
Vellore
3. Rajakumar J
4. M/s.Evacuay Bus and Logistics P Ltd.,
Rep. by its Director / Authorised Signatory,
MR.Rajakumar
No.3, 1st Floor,
Kotak Mahindra Upstairs,



W.P.No.12798 of 2023

WEB COPY

Jawaharlal Nehru Main Road,
Chennai 600 107

5. A.Sundarraaj

6. M/s.HDFC Bank Limited,
Rep by its Authorised Signatory,
No.110, Ceebros Building,
Nelson Manickam Road,
Aminjikarai, Chennai 600 029

...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to conduct an enquiry in respect of the cancellation of the hypothecation for the vehicle in TN-02-BM-8083 and transfer of ownership made in favour of the fifth respondent and consequently, initiate penal action against the 3rd respondent within the stipulated time as may be fixed by this Court.

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the 2nd respondent to conduct the enquiry



W.P.No.12798 of 2023

WEB COPY

based on the complaint / representation given by the petitioner on 14.02.2023 wherein the petitioner is seeking for the cancellation of the transfer of ownership that was effected in the records based on forged documents and consequently, to initiate penal action as against the 3rd respondent.

2. The case of the petitioner is that the 3rd respondent representing himself as the Director of the 4th respondent company availed loan for the purchase of the vehicle. As per the terms of the loan and the hypothecation agreement dated 31.08.2018, the vehicle was hypothecated in favour of the petitioner. The petitioner had extended a loan of Rs.13,62,000/- which is repayable in 60 monthly installments.

3. The grievance of the petitioner is that the 3rd respondent had created forged documents and had submitted before the 2nd respondent as if a No objection certificate was given by the petitioner enabling the 3rd respondent to transfer



W.P.No.12798 of 2023

WEB COPY

the vehicle and based on the same, the 2nd respondent had cancelled the endorsement and taking advantage of the same, the 3rd respondent had transferred the vehicle in favour of the 5th respondent. The 5th respondent in turn had hypothecated the vehicle in favour of the 6th respondent. Once the petitioner came to know all these facts, a complaint was given by the petitioner to conduct an enquiry and to initiate penal action. Since the same was not considered, the present writ petition has been filed before this Court.

4. Heard Mr.J.Pradeep, learned counsel for the petitioner and Mr.A.M.Ayyadurai, learned Government Advocate for respondents 1 and 2.

5. The main grievance that has been expressed by the learned counsel for the petitioner is that the vehicle was hypothecated in favour of the petitioner by the 3rd respondent, who was acting as the Director of the 4th respondent company



W.P.No.12798 of 2023

WEB COPY

and till the last installment is paid, the petitioner is legally the owner of the vehicle and whereas, the 3rd respondent had managed to produce false and fabricated documents before the 2nd respondent and had surreptitiously transferred the vehicle in favour of the 5th respondent, who in turn had hypothecated the same to the 6th respondent.

6. Section 55 (5) of the Motor Vehicles Act 1988, gives the power to the concerned authority to cancel registration where such registration had taken place on the basis of producing false and fabricated documents. The petitioner has taken a very specific stand that they did not issue any no objection certificate to the 3rd respondent and he had fabricated such a document and produced the same before the 2nd respondent.

7. In the light of the above discussion, there shall be a direction to the 2nd respondent to conduct an enquiry based on



W.P.No.12798 of 2023

WEB COPY

the complaint made by the petitioner on 14.02.2023 after calling all the parties concerned and enquiring them and the 2nd respondent shall take a decision on its own merits and in accordance with the Motor Vehicles Act within a period of eight weeks from the date of receipt of a copy of this order. The petitioner has taken a very specific stand in the affidavit filed in support of the writ petition that the vehicle has been ceased and it is now in the possession of the petitioner. Till a final decision is taken by the 2nd respondent, the present status quo shall be maintained without giving rise to any further complications.

8. The petitioner is directed to make a fresh representation to the 2nd respondent along with the copy of the complaint dated 14.02.2023 and the other relevant documents and also a copy of this order. A copy of the representation shall be marked to the respondents 3, 5 and 6.



W.P.No.12798 of 2023

WEB COPY

9. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

25.04.2023

rka



W.P.No.12798 of 2023

WEB COPY

1. The Regional Transport Officer,
G-17, Plot No.3623, New Avadi Road,
Anna Nagar, Chennai 600 040

2. The Regional Transport Officer,
No.660, Regional Transport office Road,
Phase -2, Sathuvachari
Vellore



WEB COPY



W.P.No.12798 of 2023

N.ANAND VENKATESH., J
rka

W.P.No.12798 of 2023

25.04.2023