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W.P. No. 28898 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28898 of 2023

A.Muthukumarasamy

... Petitioner

-VS-

1. The Regional Transport Officer (RTO),
Gobichettipalayam,
Erode District.

2. D.Gothandamani

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order in Proceedings No. 25969/A1/2022 dated 28.09.2022 passed by the First Respondent and to quash the same as perverse, incompetent and non-application of mind and consequently, direct the First Respondent to remove the block list for the Toyoto Inova {Crysta VX-7 (Diesel)} Car bearing Registration No. TN-36 AJ-1166 to enable the Petitioner in order to effect the name transfer.



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For Petitioner : Mr. Ma.P.Thangavel
For Respondent : Mr. U.Baranidharan,
Additional Government Pleader (for R1)

ORDER

Heard Mr. Ma.P.Thangavel, Learned Counsel for the Petitioner and Mr. U.Baranidharan, Learned Additional Government Pleader, who takes notice for the First Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. Having regard to the nature of order proposed to be passed in the Writ Petition, which would not cause any prejudice to the Second Respondent, notice to him is dispensed with.

3. The Second Respondent was the owner of the vehicle, viz., Toyota Innova Crysta bearing Registration No. TN-36AJ-1166, which the Petitioner claims to have purchased on 02.12.2020 for sale consideration of Rs. 16,50,000/- from him with the execution of prescribed Form 29 and 30 under Rule 55 of the Central Motor Vehicle Rules, 1989. However, when the Petitioner submitted the said forms for recording the transfer of the ownership



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of the vehicle in his favour before the First Respondent, it was informed to him by Proceedings in No. 25969/A1/2022 dated 28.09.2022 that the Second Respondent had lodged a complaint on 18.12.2020 to the police and the First Respondent that certain persons from J.K.K. Muniraja Engineering College had forcibly seized the registration certificate of the said vehicle without making full payment of the sale consideration and were attempting to fraudulently transfer the name of the owner of that motor vehicle in the records of the First Respondent which has to be enquired before effecting any change of name of the registered owner in the records of the First Respondent and in such circumstances, the Petitioner could apply for transfer of ownership of the motor vehicle in the office of the registering authority at Sulur in Coimbatore District within whose jurisdiction he resides after intimation from the police authorities that the criminal investigation is completed and the Petitioner could apply for removal of the motor vehicle in the black list prohibiting transfer of registration. Aggrieved thereby, the Petitioner has filed this Writ Petition.

4. It is borne out from the impugned order that the Second Respondent has disputed the execution of Forms 29 and 30 relating to transfer of ownership of the motor vehicle and he has even pleaded that his signature has been forged in the said forms that have been produced by the Petitioner before the First



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Respondent. Learned Counsel appearing for the First Respondent, on instructions, states that the First Respondent has sent a letter to the District Superintendent of Police, Erode to conduct forensic investigation into the genuineness of the signatures of the Second Respondent in Forms 29 and 30, and its outcome is awaited. In this backdrop, reference must be made to Rule 55(1) of the Central Motor Vehicles Rules, 1989, which reads as follows:-

“55. Transfer of ownership.—

(1) Where the ownership of a motor vehicle is transferred, the transferor shall report the fact of transfer in Form 29 to the registering authorities concerned in whose jurisdiction the transferor and the transferee reside or have their places of business.”

On a bare perusal of the said Rule, it is apparent that it is the obligation of the transferor to report the fact of transfer in Form 29 to the registering authorities concerned in whose jurisdiction the transferor and the transferee reside or has their place of business. Even according to the Petitioner, who is the transferee in this case, he has directly submitted Form 29 to the First Respondent, which does not satisfactorily comply with the requirement of the said Rule. This would obviously mean that the First Respondent cannot be faulted in refusing to effect the change of name of the owner of the motor vehicle in the records till the criminal investigation regarding the transaction is completed by the Police



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authorities.

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5. It is settled position of law that disputed questions of fact relating to property rights, which are private in character and do not have any element of public law involved, require full fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India. As such, in the event that the Petitioner is not willing to await the outcome of the criminal investigation as mentioned by the First Respondent in the impugned order, he would have to agitate his rights relating to the ownership of the motor vehicle only before the Civil Court and it is not possible to entertain this Writ Petition. It is hastened to clarify here that no view has been expressed by this Court on the merits of the controversy involved in the matter.

In the result, the Writ Petition is dismissed with the aforesaid observations. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

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P.D. AUDIKESAVALU, J.

vjt

To

The Regional Transport Officer (RTO),
Gobichettipalayam,
Erode District.

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