



W.P.(MD)No.9874 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.09.2023**

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

W.P.(MD)No.9874 of 2023

M/s.Cholamandalam Investment
and Finance Company Ltd.,
Rep. by its Authorised Officer,
Mr.Francis Decour

... Petitioner

Vs.

1. The Superintendent of Police,
Economic Offences Wing (Ramanathapuram),
Camp @ Tiruchirappalli, Trichy.
2. The Regional Transport Officer,
Regional Transport Office,
Chandrapura, Bengaluru,
Karnataka.
3. M/s.Raahath Transport,
No.2, Subbaihah Street,
Ellaipillaichavady,
Puducherry – 605 001.

... Respondents

PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus directing the first



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respondent to withdraw their communication sent to the second respondent insofar it relates to blacklisting of the vehicle bearing No.KA-59-2083 which is hypothecated to the petitioner so as to enable the registration of the vehicle to the prospective buyers.

For Petitioner : Mr.R.Sreedhar

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)
for R1 & R2

ORDER

This petition is filed seeking for a mandamus directing the first respondent to withdraw communication sent to the second respondent insofar it relates to blacklisting of the vehicle bearing No.KA-59-2083.

2. So far as this application is concerned, as per the affidavit enclosed in the petition that the petitioner company is engaged in the business to extend financial facility to prospective customers under various schemes including vehicle finance. The petitioner company has granted finance facility to its customer by name A.Kamaludeen who is the proprietor of “Raahath Transport”/third respondent herein, who has purchased a commercial vehicle bearing registration No.KA-59-2083.



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However, in the month of September 2021, the said Kamaludeen died on account of health issues. As the EMIs could not be paid subsequently, the account of the said Kamaludeen has become NPA and that since Kamaludeen has created the hypothecation of the vehicles the petitioner company has repossessed the vehicles.

3. As per the norms of the petitioner company and as per the agreement of hypothecation, the petitioner company has made an attempt to sell the said vehicle by way of public auction. However, on verification of the website of Ministry of Road Transport and Highway, there was a mention that the said vehicle is blacklisted with the caption *“Complain Type: Police Case, FIR Date: 13-Sep-2022, Complain : C NO 256-102/DSPEOW TRICHY 2022/17-08-22, Complain Date:13-Sep-2022”*.

4. On verification, it was found that the first respondent/Superintendent of Police, EOW, Ramanthapuram, has issued proceedings to the second respondent not to allow the change of ownership. He further submits that on account of such information, the



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petitioner company is unable to sell the vehicle. In case, if the vehicles are not sold and kept idle, the vehicle will get damage and its value will be diminished which is nothing but the national loss.

5. Learned counsel for the petitioner submits that Kamaludeen has availed loan and purchased the vehicle bearing registration No.KA-59-2083 and hypothecated the same in favour of the petitioner company by executing all required documents, however the first respondent has not even informed or issue any notice about the blacklisting vehicle and thereby sought for a directions as prayed for.

6. Heard both sides and perused record.

7. The respondent police have not disputed that the vehicle bearing registration No.KA-59-2083 was purchased by said Kamaludeen by taking finance from the petitioner's company. It is also not in dispute that the said vehicle was hypothecated in favour of the petitioner's finance company. As per the hypothecation agreement, once account becomes NPA, the petitioner will have right to repossess the vehicle and after



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completion of formalities, he would also have right to put the vehicle in auction and realize the sale proceeds and credit to the loan account. In case if the sale proceeds are not sufficient to the loan to be paid, still petitioner company will have a right to proceed further to recover the balance of amount.

8. The first respondent who has kept the said vehicle in blacklist has not given any reasons for blacklisting the vehicle. Investigating Officers can certainly put any vehicle in blacklist, however, merely because the case is pending against any person his vehicle cannot be blacklisted.

9. Learned Government Advocate submits that the deceased Kamaludeen has borrowed loans from various institutions and persons thereby cases have been filed in respect of those loan accounts thereby the vehicle bearing registration No.KA-59-2083 is blacklisted. The respondent police can blacklist vehicle Kamaludeen purchased the said vehicle out of tainted money. It is not the case of the respondent police



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that the deceased Kamaludeen had purchased the vehicle out of the money which he has earned by way of committing any offence.

Therefore, as long as there is no connection with the alleged offence committed by the deceased Kamaludeen to that of the vehicle which was purchased by Kamaludeen by finance from the petitioner company, the proceedings of the first respondent police shall not sustain.

10. In view of the above discussions, this writ petition is allowed and the communication sent by the first respondent to the second respondent in respect of blacklisting of the vehicle bearing registration No.KA-59-2083, is hereby quashed.

29.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN



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To

1. The Superintendent of Police,
Economic Offences Wing (Ramanathapuram),
Camp @ Tiruchirappalli, Trichy.
2. The Regional Transport Officer,
Regional Transport Office,
Chandrapura, Bengaluru,
Karnataka.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

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