



W.P.(MD) No.23100 of 2022
and
W.P.(MD) No. 2337 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.23100 of 2022

and

W.P.(MD) No.2337 of 2023

and

W.M.P.(MD) Nos.17199 and 17201 of 2022

W.P.(MD) No.23100 of 2022:

Kotak Mahindra Bank Limited,
Rep., by its Authorized Officer,
Mr.C.Bharathan,
Having Office at
1st Floor, Sev Building,
1-A-West Perumal Maistry Street,
Madurai-625 001.

.. Petitioner

Vs.

- 1.The Regional Transport Officer,
Regional Transport Office,
Pillayarpatti Post, Thanjavur.
- 2.The Regional Transport Officer,
Regional Transport Office,
Arockiasamy Nagar,
Kumbakonam, Thanjavur.



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3.The Additional Superintendent of Police,
Economic Offence Wing,
Ramanthapuram,
(Camp at Tiruchirappalli,
Crime No.78/2021,
On the file of the District Crime Branch,
Thanjavur).

4.The Inspector of Police,
Economic and Offence Wing,
Trichy.

5.The Additional Chief Secretary to Government,
Home (Police XIX) Department,
Chennai-600 009.

.. Respondents

***[R5 – suo motu impleaded vide order dated
19.12.2022 in W.P.(MD) No.23100 of 2022]***

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned communication in C.No.256/6101/ DSP/EOW/RMD @ TRICHY/2022 dated Nil on the file of the third respondent, quash the same as illegal and consequently direct respondents 1 and 2 to issue a fresh certificate of registration in the name of the petitioner's bank namely Kotak Mahindra Bank for petition mentioned vehicles, based on the petitioner's bank application dated 07.07.2022 in Form-36 of Tamil Nadu Motor Vehicles Rules, as per the Motor Vehicles Act, within time frame as this Court may deem fit and proper in the fact and circumstances of the case.



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For Petitioner : Mr.AN.Ramanathan
For Respondents : Mr.D.Ghandiraj
Special Government Pleader

W.P.(MD) No.2337 of 2023:

ICICI Bank Ltd.,
Rep., by its Authorized Signatory,
Legal Manager,
Colony A-14/STRR Towers,
East Coast Road, Thillai Nagar,
Trichy-620 018.

.. Petitioner

Vs.

- 1.The Regional Transport Officer,
Regional Transport Office,
Pillayaripatti Post,
Thanjavur-613 403.
- 2.The Superintendent of Police,
Economic Offences Wing (Ramanathapuram),
Camp @ Tiruchirapalli, Trichy.
- 3.The Deputy Superintendent of Police,
Economic Offences Wing (Ramanathapuram),
Camp @ Tiruchirapalli,
Trichy, (Investigation Office of Cr.No.78/2021,
Thanjavur Economic Offence Wing).
- 4.Raahath Transport,
A Proprietary Concern,
No.2, Subbaihah Street,



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Ellaipillaichavady,
Puducherry-605 001.

5.K.Afsal Rahman

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the first respondent to remove the entry of blacklisting of the vehicles bearing Nos. TN-49-BP-2266, TN-49-BM-2266 which are hypothecated with the petitioner so as to enable the registration of the vehicle to the prospective buyers.

For Petitioner : Mr.R.Anandharaj
For RR1 to3 : Mr.D.Ghandiraj
Special Government Pleader

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, a common order is being passed in these writ petitions.

2. The facts in brief are as follows:

The petitioner-Bank had extended loan facilities to one Kamaludeen for purchasing vehicles. Since the borrower had not repaid



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the Equated Monthly Instalments as agreed, the accounts were treated as a Non Performing Asset and the petitioner-Bank, exercising their right of repossession, as provided under the agreement, had repossessed the omnibuses. After repossessing the same, the petitioner-Bank had applied for transferring the name of the vehicles in their name in keeping with the provisions of Section 51 of the Motor Vehicles Act, 1988. However, to their shock and surprise, the Additional Superintendent of Police, Economic Offence Wing, Ramanathapuram, had informed the petitioner that the Inspector of Police, Economic and Offence Wing, Trichy, had registered a crime against the owner of Raahath Transport, Mr.Kamaludeen for offences under Sections 406 and 420 IPC and proceedings under Section 5 of TNPID Act has been initiated. The Additional Superintendent of Police further informed that the buses were criminal case properties, and therefore, the petitioner-Bank could not deal with the same without the permission of the TNPID Court, Madurai. It is this order that is subject matter of challenge in W.P.(MD) No.23100 of 2022.



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3. Aggrieved by the refusal of the first respondent to effect the transfer of the vehicles belonging to the petitioner, which were the subject matter of hypothecation back into the petitioner's name by deleting the hypothecation, the petitioner in W.P.(MD) No.2337 of 2023 is before this Court.

4. Heard the learned counsel on either side.

5. Admittedly, the property viz., the omni buses belong to the petitioners, who are the registered owners even according to the loan agreement between them and the said Kamaludeen. The first charge over these vehicles lies only with the petitioners. It is not known as to how the Additional Superintendent of Police, Economic Offence Wing, Ramanathapuram, would seek a claim to the vehicles in question citing pendency of proceedings before the TNPID Court. The petitioners have exercised their statutory right to repossess the property for non-payment of their dues and the same has also been repossessed and is now in the possession of the petitioners. Therefore, the claim of the Additional



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Superintendent of Police, Economic Offence Wing, Ramanathapuram, has to necessarily be rejected. This Court, on an earlier occasion, in an other matter relating to the very same accused, has allowed the writ petition and quashed the impugned notification.

6. In the light of the above, these writ petitions are allowed as prayed for and the impugned communication in C.No.256/6101/ DSP/EOW/RMD @ TRICHY/2022 is quashed and a direction is issued to the first and second respondents to transfer the register certificate in the name of the petitioners. No costs. Consequently, connected miscellaneous petitions are closed.

14.06.2023

NCC : Yes/No

Index : Yes/No

abr

To

1.The Regional Transport Officer,
Regional Transport Office,
Pillayarpathi Post, Thanjavur.



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P.T.ASHA, J.

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Dated: 14.06.2023

7.The Deputy Superintendent of Police,
Economic Offences Wing (Ramanathapuram),
Camp @ Tiruchirapalli,
Trichy, (Investigation Office of Cr.No.78/2021,
Thanjavur Economic Offence Wing).