



W.P(MD)No.27921 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM

THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.27921 of 2022

and

W.M.P(MD)No.22002 of 2022

1.M/s.Kodai Automobiles Limited,
Represented by its Director,
No.176-B/3, Trivandrum Road,
Palayamkottai,
Tirunelveli-627 002.

2.S.G.Jayaraj Nadar and Son,
No.176B, Trivandrum Road,
Palayamkottai,
Tirunelveli-627 002.

... Petitioners

Vs.

1.The Authorized Officer,
Axis Bank Limited,
Southern Recovery Cell,
1st Floor, Old No.2, New No.3,
Club House Road,
Anna Salai,
Chennai-600 002.

2.The Branch Manager,
Axis Bank Limited,
SN High Road,
Opposite to Schaffter High School,
Tirunelveli-627 001.



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3.The Deputy Commissioner of CGST
and Central Excise,
Tirunelveli Division,
Tirunelveli.

... Respondents

*(R-3 is suo motu impleaded vide Court order, dated
09.01.2023, in W.P(MD)No.27921 of 2022)*

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first and second respondents to release the property documents of the petitioners based on the one time settlement scheme in the proceedings of the first respondent in Ref:AXISB/SAG/SOUTH/2022-23/55, dated 28.09.2022, forthwith and hand over the same to the petitioners and pass such further or other orders as this Court.

For Petitioners : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran

For R-1 & R-2 : Mr.V.Kasirajan
Standing Counsel

For R-3 : Mr.N.Dilip Kumar

ORDER

Heard the learned Senior Counsel for the writ petitioners and the learned Standing Counsel for the Axis Bank and the learned Counsel for the third respondent.



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2. The writ petitioners had availed loans from the second respondent. The loans have since been cleared; the petitioners wanted the title documents back. The bank refused to part with the documents by citing the communication received from the third respondent. The communication of the third respondent is to the effect that the creditor after adjusting their dues should credit the balance amount that may be available after sale of the securities offered by the petitioner to the Central Government account. Copy of the said communication dated 14.03.2022 issued by the third respondent has been enclosed in the typed set of papers. A reading of the aforesaid communication indicates that the third respondent had not created any charge as such over the properties offered as security by the writ petitioners. The third respondent had only called upon Axis Bank not to pay the balance amount after adjustment of the bank dues to the petitioner. Since the entire loan account have been settled, the said communication dated 14.03.2022 had become infructuous. Yet the bank for whatever reason was hesitant to return the document to the petitioner. That led to the filing of the present writ petition.

3. When the matter was taken up for hearing, the learned Senior Counsel appearing for the petitioners fairly submitted that out of five items that was offered as security, one un-encumbered property will be exclusively earmarked for satisfying the dues of the third respondent. To this effect, an affidavit dated



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03.01.2023 signed by the first petitioner on their behalf of the second petitioner has been filed today. The said affidavit shall form part of the order.

4. In view of the aforesaid undertaking, the respondents 1 and 2 are directed to release the petition mentioned documents to the petitioners herein. It is open to the third respondent herein to issue appropriate proceedings for creating a charge over the property covered by document No.3465 of 2009 on the file of the Palayamkottai SRO. This writ petition stands allowed on these terms. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

03.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Btr

To

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G.R.SWAMINATHAN, J.

Btr

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