



W.P.(MD) No.29129 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.29129 of 2022

P.Ponnarasi

.. Petitioner

Vs.

1.The Regional Transport Officer,
Regional Transport Office,
Batlagundu, Dindugal District.

2.The Regional Transport Officer,
Regional Transport Office,
Dindugal, Dindugal District.

3.The District Collector,
Dindugal District.

4.The District Revenue Officer,
Salem District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the 1st Respondent to consider and dispose of the petitioner's representation dated 24.11.2022 within a stipulated time framed fixed by this Court.



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For Petitioner : Mr.G.Vairamani
For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

This Writ Petition is filed for issuance of Writ of Mandamus directing the 1st Respondent to consider and dispose of the petitioner's representation dated 24.11.2022 within a stipulated time.

2. The facts as set out in the writ petition would read as follows:

The petitioner had purchased a vehicle viz., Ashok Leyland Tusker bearing Registration No.TN 32 C 5880 from one Rajesh, which the said Rajesh had purchased by availing finance from Equitas Small Finance Bank. On 10.06.2019, an agreement was made between the petitioner's husband and Rajesh to purchase the vehicle at a cost of Rs.6,80,000/-. A sum of Rs.1,00,000/- was paid as advance. The petitioner, thereafter, approached Sri Ram Transport Finance Limited, Nilakottai Branch, for financial assistance to pay the balance amount. The Finance Company, after verifying the records, had sanctioned the said loan, which was also repaid in full by the petitioner and the petitioner had obtained 'no due



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certificate'. Armed with this certificate, the petitioner had approached the first and second respondents for cancelling the hypothecation to effect change of ownership of the vehicle in the name of the petitioner.

3. It appears from the records that Registration Certificate had also been transferred in the name of the petitioner by the first and second respondents. However, the respondents were not ready to remove the hypothecation stating that the vehicle has been blacklisted by the first respondent. This fact was not known at any point of time by the petitioner. The petitioner, on enquiry, came to know that one Senthil @ Vadivel from whom the petitioner's vendor had purchased the vehicle had misused the vehicle and smuggled 400 litres of Kerosene from a fair price shop at Salem in the year 2013 and the 4th respondent had imposed fine on the said Senthil @ Vadivel. The petitioner would submit that despite being aware of the above fact, the respondents have transferred the vehicle in her name. The purchase by the petitioner's vendor was as early as in the year 2013. Therefore, she would submit that she is not in any way connected with the activity alleged by the respondents and



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therefore, she sent a representation to the first respondent to cancel the hypothecation and change the name of the ownership in the vehicle registration certificate and remove the vehicle from the blacklist. However, no steps were taken in this regard. Therefore, the petitioner has come forward with this writ petition.

4. The learned counsel for the petitioner would also make the same submissions as stated in the writ petition.

5. The 4th respondent has filed a counter affidavit *inter alia* contending that the lorry was found illegally carrying out 400 litres of Public Distribution System Kerosene on 08.05.2013 and on 09.05.2013, an FIR was registered in Crime No.162/2013 under the Essential Commodities Act, 1955 against the said Senthil @ Vadivel. Senthil @ Vadivel had filed W.P.No.14876 of 2013 asking for release of his vehicle. The said writ petition was disposed of with a direction that the respondents should consider and dispose of the application filed by the petitioner therein for release of the vehicle on merits and as per law as



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expeditiously as possible. Pursuant to the said order, the vehicle was temporarily released on condition that the said Senthil @ Vadivel deposits a sum of Rs.2,00,000/- in the name of the 4th respondent.

6. From the counter affidavit, it is seen that the deposit as directed has been made by Senthil @ Vadivel and an indemnity bond was also signed on 01.08.2013, wherein the said Senthil @ Vadivel was shown as the owner of the vehicle and he had agreed not to alienate the lorry in any way or encumber till the disposal of the case. It also appears that the criminal case ended with fine being imposed on the said Senthil @ Vadivel for permanent release of the lorry payable in seven days and the conditions imposed were accepted by him. However, a sum of Rs.3,43,624/- is still due. The said Senthil @ Vadivel thereafter, filed W.P.No.37079 of 2015 challenging the above proceedings of the 4th respondent and the writ petition was dismissed for non-prosecution. The said Senthil @ Vadivel was granted time to remit the fine amount of Rs.7,00,000/-. The 4th respondent would further submit that the subsequent sales effected in respect of the vehicle came to the knowledge



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of the 4th respondent only when a copy of the petition dated 28.11.2022 was received. Hence, seeks for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

8. From a perusal of the papers, it appears that despite being aware about the orders against Senthil @ Vadivel, the first and second respondents have effected the transfer in the names of the subsequent purchasers and lastly upon the petitioner. Nowhere the subsequent purchasers been made aware of the fact that there were criminal proceedings pending in respect of the vehicle. In fact, now the name of the petitioner has been incorporated in the Registration Certificate along with the hypothecation in the name of Sri Ram Transport Finance Limited. In these circumstances, taking into account the fact that the loan in favour of Sri Ram Transport Finance Limited has been fully settled by the petitioner, though the relief claimed is to consider the representation, this Court directs the first respondent to remove the



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hypothecation recorded in the registration certificate and to record the petitioner as the exclusive owner within a period of three weeks' from the date of receipt of a copy of this order.

9. With the above observations and direction, this Writ Petition is allowed. No costs.

06.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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P.T.ASHA, J.

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