

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 21230 of 2021

Kanhaiya Ray son of Sri Madan Rai resident of village- Govindpur Tola
Rajapur Ward No.6, P.S. Bachhwara, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Finance Department,
Government of Bihar, Patna
2. The District Magistrate Begusarai
3. The Branch Manager Tata Motors Finance Limited Purnea
4. The Branch Manager, Tata Motors Mahakali Motors Private Limited
Katihar.
5. The Manager Mahakali Motors Private Ltd. Purnea.
6. Chola Mandalam Finance Company Pvt. Ltd. Begusarai

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jai Prakash Singh, Adv.
For Respondent No. 3	:	Mr. Dhananjay Kashyap, Adv.
For Respondent No. 6	:	Ms. Shivangi, Adv.
For the Respondent/s	:	Mr. Sarvesh Kumar (Gp24)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

21 11-09-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

“(i) For issuance of an appropriated writ, direction commanding the respondent authorities to give the detail of the due loan amount bearing Loan Account No.5003015717 in respect of Truck bearing Registration No. BR09GA-8777 of the petitioner and give the proceeding documents of loan proposal Quotation, invoice letter and others related relevant documents of the said vehicle, the Respondent No.3 not providing the details of the calculation of loan amount nor providing relevant document of the loan due against the petitioner.

(ii) For issuance of an



appropriate writ, direction commanding the respondent authorities to take the installment amount according to Guideline of the R.B.I.

(iii) For issuance of an appropriate writ, direction commanding the respondent authorities do not take possession of the property of the petitioner as detail the movable property in respect of bearing Truck No. (Vehicle No.)-No. BR09GA-8777 which has purchased by the petitioner.

(iv) For issuance of an appropriate writ, direction commanding the respondent authorities to restrain to the respondent either realized the due loan amount of the vehicle or take possession of the vehicle or sold it.

(v) For issuance of an appropriate writ in the nature of Mandamus direction and commanding the respondent authority to release the vehicle Truck bearing Registration No.BR09GA-8777 of the petitioner which has been seized by the 2020. respondent authority on 13.22020.

(vi) To grant of other relief or reliefs for which the petitioner is entitled from the facts and circumstances of the case.”

3. In the counter-affidavit filed by the respondents, it is stated that the petitioner has not approached the Court with clear hands. That the possession of the subject vehicle was taken after the interim order passed by the Arbitration Tribunal under Section 17 of the Arbitration & Conciliation Act, 1996 and, thereafter, the award has been passed in favour of the



respondent-Tata Motors Finance Limited (Annexure-G).

4. Learned counsel for the respondents has stated that the petitioner has defaulted in payment of the loan and, therefore, the vehicle was repossessed strictly in consonance with the procedure contemplated under the loan agreement entered between the parties.

5. Admittedly, in this particular case, the petitioner has availed the loan by hypothecating the vehicle. However, the petitioner has not paid the EMI regularly and the respondent-Company after grant of the interim order from the Arbitration Tribunal has taken possession of the vehicle. Subsequently, the award has also been passed in favour of the respondent-Company.

6. Having regard to the same, this Court does not find any merit in the present writ petition and the same is accordingly dismissed. However, the liberty is granted to the petitioner to avail the remedies as available under law challenging the award passed by the Arbitration Tribunal.

(A. Abhishek Reddy, J)

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