

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14323 of 2023

Satyajeet Kumar, Son of Sri Pramod Shukla Resident of Ward No 14 village
Bharatpur Post Adalpur P.S. Mahua District Vaishali, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Commissioner, Government of Bihar,
Old Secretariat, Patna, Bihar- 800001.
2. The Director General of Police, Jawahar Lal Nehru Marg Raj Bansi Nagar
Patna, Bihar- 800015.
3. The Secretary, Department of Transport Government of Bihar Vishwesaraiya
Bhawan Bailey Road Patna Bihar- 800001.
4. The Regional Director, Reserve Bank of India, South Gandhi Maidan Patna
Bihar- 800001.
5. The District Magistrate, Collectorate Office Kachahari Road Hajipur
Vaishali Bihar -844101.
6. The District Magistrate, Collectorate Office Vishnupur Chitragupta Nagar
Begusarai Bihar- 851101.
7. The Superintendent of Police, Collectorate Office Kachahari Road Hajipur
Vaishali Bihar- 844101.
8. The Superintendent of Police, S.P. Office Road Begusarai, Bihar- 851101.
9. The Tata Motors Finance Company Limited, Branch Manager 601, Kashi
Palace 6th floor Dak Bunglow Road, Bihar, Patna - 800001.
10. The Tata Motors Finance Company Limited, Branch Manager, Global Auto
Wheels Kachahari Road Hajipur Vaishali Bihar- 844101.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sujit Kumar Singh, Adv.
For the Respondent/s : Mr.Md. Nadim Seraj (GP 5)

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

8 02-12-2024 Heard learned counsel for the parties.

2. The present writ petition has been filed for the
following relief(s):-

*“ for issuance of a writ in the
nature of Mandamus/ or an appropriate writ*



commanding and directing the respondent authorities to consider the case of the petitioner in the light of this Hon'ble Court order dated 30.06.2022 passed in C.W.J.C. No. 4429 of 2022 and /or for issuance of an appropriate writ/ order/ direction for which the petitioner is legally entitled."

3. Learned counsel appearing on behalf of the petitioner has stated that the Respondent No. 9-Tata Motors Finance Company Limited has seized the vehicle which was financed by them in high handed manner without following the procedure as directed by this Court vide order dated 30.06.2022 passed in CWJC No. 4429 of 2022. Learned counsel has stated that the authorities without issuing any show cause notice or invoking the provisions of the SARFAESI Act have deployed their recovery agent against the petitioner and seized the vehicle of the petitioner. Learned counsel has stated that the act of the respondents- Tata Motors Finance Company Limited in seizing the vehicle of the petitioner in a high handed manner is contrary to the well established principle of law laid down by this Court in the above mentioned CWJC. Learned counsel has therefore prayed this Hon'ble Court to direct the respondents-Tata Motors Finance Company to hand over the subject vehicle to the petitioner.



4. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the vehicle of the petitioner was already auctioned and therefore, the prayer sought for in the present writ petition has become infructuous. Learned counsel has stated that the respondents-Tata Motors Finance Company Limited duly taking into consideration the fact that the petitioner has not been paying the monthly installments has invoked the provision for appointment of the arbitrator. That the arbitrator has already given an award based on which the authorities have taken back the possession of the vehicle and auctioned it. Learned counsel has stated that the petitioner in spite of being put on notice several times has not responded to the same and therefore left with no other option the respondents had to invoke the arbitration clause and followed the procedure. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the documents more particularly the award dated 08.03.2023 passed by the arbitrator in this particular case reveals that though the arbitrator issued the notice to the petitioner herein, the petitioner did not participate in the said proceedings and the award was passed. The postal



receipts filed by the respondents reveal that the notices were issued to the petitioner before and after commencement of the arbitration proceedings, but for the reasons best known, the petitioner has not participated in the said proceedings.

6. As seen from the record that the respondents have taken possession of the trucks only after the award has been passed. In case the petitioner has any grievance, he has to challenge the award passed by the arbitrator and cannot invoke the jurisdiction of this Court under article 226 of the Constitution of India.

7. Having regard to the above, this Court does not find any merit in the present writ petition which warrants any interference or for granting any relief to the petitioner. The present writ petition is disposed of granting liberty to the petitioner to challenge the award if he is so advised. In case the petitioner is of the opinion that the terms of the contract have been violated, then his remedy is to approach the Civil Court.

8. The present writ petition is accordingly disposed of.

(A. Abhishek Reddy , J)

Bhardwaj/-

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