



W.P.No.8012 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8012 of 2019

M/s.Deccan Finance Limited
Rep. by its Managing Director
Sanjay Bhansali
Old No.19, New No.4/3, 1st Floor,
1st Cross Street, Sterling Road,
Nungambakkam, Chennai 600 034

... [PETITIONER]

Vs

1.The Regional Transport Officer,
South-West,
Chennai 92
2.M.Suresh Kumar

... [RESPONDENTS]

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue a writ of certiorarified mandamus calling for the records
of the first respondent made in his proceedings No.63156/அ3/2018 dated
28.01.2019 and to quash the same and to issue direction directing the



W.P.No.8012 of 2019

WEB COPY

first respondent to cancel the hypothecation lien, in respect of 2003 Model Toyota Qualis bearing Registration Number TN-10-F-6586 and to effect transfer of ownership as per the provisions of the Motor Vehicles Act, 1988.

For Petitioner : Mr.S.Sarathkumar
for Mr.U.Visal Kumar

For Respondents
For R1 : Mr.C.Kathiravan,
Special Government Pleader

For R2 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 28.01.2019 thereby rejected the request made by the petitioner as well as the purchaser of the vehicle for registration of vehicle under the name of the purchaser.

2. The petitioner company is a registered company under the Companies Act. It is engaged in financing business and had lent to the second respondent for purchase of a vehicle. The second respondent also



W.P.No.8012 of 2019

executed hypothecation agreement dated 16.05.2013 to purchase three vehicles i.e. 1. 2003 Model Mahindra Bolero bearing registration number TN 07 AA 9644, 2.2008 model Mahindra Scorpio bearing registration number PY 01 A2 2005 and 3. 2003 model Toyota Qualis bearing registration number TN 10 F 6586. All the three vehicles were registered under the provisions of Motor Vehicles Act, 1988 with the endorsement of hypothecation agreement. Thereafter, the second respondent had committed default in payment of loan amount. Therefore, the petitioner has right to seize the vehicles as per the hypothecation agreement and accordingly seized the vehicles. Thereafter, the vehicles were brought for auction sale. In the auction sale, the vehicle was purchased by one J.Sasikumar. Thereafter, he approached for transfer of ownership of the vehicle. In the meanwhile, the second respondent lodged complaint before the police authority alleging that the said vehicles were stolen by the petitioner. However, the second respondent failed to appear for enquiry and the police complaint was closed.

3. Admittedly, the vehicle was purchased in the open auction



W.P.No.8012 of 2019

conducted by the petitioner by one, Sasikumar for valid sale consideration. It is relevant to extract section 51(5) of Motor Vehicles Act, 1988 hereunder:

51.Special Provisions regarding motor vehicle subject to hire-purchase agreement, etc. -

(5)Where the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement, satisfies the registering authority that he has taken possession of the vehicle from the registered owner owing to the default of the registered owner under the provisions of the said agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a fresh certificate of registration in the name of the person with whom the registered owner has entered into the said agreement.



W.P.No.8012 of 2019

Provided that a fresh certificate of registration shall not be issued in respect of a motor vehicle, unless such person pays the prescribed fee.

Provided further that a fresh certificate of registration issued in respect of a motor vehicle, other than a transport vehicle, shall be valid only for the remaining period for which the certificate cancelled under this sub-section would have been in force.”

4. This issue was already dealt with by this Court in the case of ***Sundaram Finance Limited Vs. The Regional Transport Authority*** reported in ***(1993) 2 MLJ 586***, wherein this Court directed to transfer the ownership of the vehicle to the name of auction purchaser.

5. Therefore, the first respondent ought to have registered the vehicle in the name of the auction purchaser though the second respondent raised objections. Admittedly, the second respondent had committed default in repayment and the vehicle was seized by the petitioner. The said vehicle was brought for auction sale. In the auction sale, one, Sasikumar had purchased the same for valid sale consideration



W.P.No.8012 of 2019

and approached the first respondent for name transfer.

WEB COPY

6. In view of the above, the order impugned cannot be sustained and the same is liable to be quashed. Accordingly, the impugned order passed by the first respondent dated 28.01.2019 is quashed. The first respondent is directed to register the above vehicle which was purchased by one, Sasikumar in his name forthwith, if not already registered.

7. With the above direction, this writ petition stands allowed.
There shall be no order as to costs.

29.10.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.No.8012 of 2019

To
The Regional Transport Officer,
South-West,
Chennai 92



WEB COPY



W.P.No.8012 of 2019

G.K.ILANTHIRAIYAN, J.

lok

W.P.No.8012 of 2019



WEB COPY



W.P.No.8012 of 2019

29.10.2024