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W.P.No.24050 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

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

W.P.No. 24050 of 2024
and
W.M.P.Nos.24312 & 24314 of 2024

C.Thangaraj

.... Petitioner

Vs

1. The Appellate Authority,
The Deputy Transport Commissioner,
R.T.Os Office 2nd Floor,
271/2, Kollukattu Medu,
Lakapuram Post,
Karur Main Road,
Erode -638002.

2. The Original Authority,
The Regional Transport Officer,
R.T.Os Office,
271/2, Kollukattu Medu,
Lakapuram Post,
Karur Main Road,
Erode -638002.

3. The Recovery Manager,
Kotak Mahindra Prime Ltd,
5330, State Bank Colony,
Junction Main Road,
Salem -636 004.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for



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the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 2nd respondent vide proceedings No. 29430/A3/2021 dated 21.06.2022 and impugned order dated 23.11.2022 passed by the 1st respondent in the Appeal Vide proceedings in No. 1034/A2/2022 and quash the same and further direct the Respondents to restore the ownership of the vehicle bearing Reg.No. TN. 33 BS 3535 in the name of the petitioner.

For Petitioner : Mr.A.Kumar

For R1 & R2 : Mr.V.Manoharan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 21.06.2022, thereby cancelled the ownership of the vehicle from the name of the petitioner and transferred in favour of the financier and the order passed by the first respondent dated 23.11.2022, thereby confirming the order passed by the second respondent in the appeal.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 & 2 and perused the materials available on record.



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3. The petitioner had purchased a Toyota Innova bearing Registration No.TN-33-BS-3535 with the assistance of third respondent finance by way of hypothecation. During COVID-19 pandemic, he suffered loss and as such the petitioner committed default on payment of loan. While being so, on 21.09.2020, the third respondent seized the vehicle for non-payment of loan amount. The petitioner lodged a complaint before the second respondent. On receipt of the representation, the second respondent conducted an enquiry, after issuance of notice to the petitioner and the third respondent herein. On the enquiry, the second respondent, by a proceedings dated 21.06.2022, cancelled the registration certificate stands in the name of the petitioner and transferred the same in the name of the third respondent. Aggrieved by the same, the petitioner preferred an appeal before the first respondent and the same was also dismissed by an order dated 23.11.2022.

4. The learned counsel appearing for the petitioner would submit that the third respondent illegally sold the vehicle in the auction in favour of one Manoj Kumar and received a sum of Rs.16,21,000/- and in turn the said Manoj Kumar sold the vehicle in favour of the third party. Even then it was not considered by the second respondent and transferred



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the vehicle in favour of the financier. It is a clear violation of Section 51(5) of the Motor Vehicles Act. He further submitted that the Appellate Authority, viz., the first respondent, without considering the same, dismissed the appeal.

5. A perusal of the records reveals that even at the time of enquiry, the ownership of vehicle was not transferred to anybody. It was transferred by an order dated 21.06.2022 in favour of the financier. Admittedly, the petitioner committed default and the vehicle was seized by the third respondent. Therefore, the same was also rightly confirmed by the first respondent. That apart, the first respondent, in the appeal, by an order dated 23.11.2022, confirmed the order passed by the second respondent. This writ petition has been filed nearly after a period of two years. There is absolutely no valid reason for the huge delay in preferring this writ petition.

6. In view of the above, this Court finds no infirmity or illegality in the orders passed by the first and second respondents. Thus the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently,



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connected miscellaneous petitions are closed. No costs.

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Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

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271/2, Kollukattu Medu,
Lakapuram Post,
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G.K.ILANTHIRAIYAN, J.

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