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W.P. No.25197 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HONOURABLE **Mrs. JUSTICE V. BHAVANI SUBBAROYAN**

W.P. No.25197 of 2023

P.Srinivasan

.. Petitioner

Versus

1.The Regional Transport Officer,
R.T.O. Office (East)
Erode,
Erode District.

2.S.Selvakumar

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent herein to hand over petitioner's vehicle bearing registration number TN- 10- BH-8258 LWV car, to his custody in the light of his representation dated 22.07.2023 within a stipulated period as may be fixed by this Court.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.M.Shahjahan
Special Government Pleader for R1

Mr.R.Prabakar for R2



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ORDER

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This writ petition has been filed to direct the 1st respondent herein to hand over petitioner's vehicle bearing registration number TN- 10- BH-8258 LWV car, to his custody in the light of his representation dated 22.07.2023 within a stipulated period as may be fixed by this Court.

2. The case of the petitioner is that the car bearing Registration Number TN- 10- BH-8258 belongs to the petitioner and the said car was found missing in the month of April, 2022. Hence, the petitioner has preferred a complaint before the Vellore Police Station. During enquiry it was found that the second respondent herein has forged the petitioner's signature and changed the ownership of the said vehicle in his name. Based on the forged documents produced by the second respondent, the first respondent has transferred the ownership of the vehicle to the second respondent's name. Hence, the petitioner has given a representation in this regard to the first respondent on 22.05.2022. Thereafter, the first respondent confirmed that the second respondent has forged the signature of the petitioner and produced fake documents before him. Hence the first respondent has recovered the vehicle from the second respondent and retained the same at his office. He has also passed an order in Se.Mu.Order No.16500/E3/2022 dated .05.2022 by cancelling the illegal



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transfer of ownership in favour of second respondent.

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3. The learned counsel for the petitioner submitted that though the first respondent has passed an order by cancelling the ownership of the second respondent, he retained the vehicle at his office premises. Since the police officials has not registered any case, the first respondent has no locus to retain the vehicle in his custody. Hence, the petitioner has filed this writ petition to hand over the said vehicle to the petitioner.

4. The first respondent has filed counter by stating that after cancellation of all the documents from the name of the transferee and restore the name of the petitioner, the vehicle was seized and kept in the first respondent's office as per the proceedings in R.No.16500/B3/2022 dated 26.05.2022. A case was registered by the Inspector of Police, Modakurichi Police Station in Cr.No.273/2022 under Section 465, 468, 471 and 420 IPC. Since a criminal case has been registered, it is the bounden duty of the first respondent to keep the vehicle in his custody. Though the first respondent has taken action based on the representation of the petitioner, a check report was sent to the Inspector of Police, Modakurichi for prosecution, and on receipt of the orders from the Court, the vehicle shall be released by the first respondent. Hence the first



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respondent has every right to keep the vehicle under his custody.

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5. The second respondent has filed a counter in which it is stated that the second respondent has never ever forged the signature of the petitioner as alleged by the petitioner. Only based on the documents and transfer forms of Lovelin Cars, name transfer was effected. The second respondent has spent a sum of Rs.5,76,000/- to purchase the car. The petitioner along with the said Lovelin Cars has cheated the second respondent and the second respondent has lodged a complaint before the Superintendent of Police, Erode and since no action was taken, he has filed a petition under Section 156 Cr.P.C. and the same is pending. The second respondent has purchased the vehicle for valid consideration from the 'OLX' App after thorough verification and he has also annexed all the documents that the petitioner had a direct dealing through 'OLX' App and payment has been made through online transaction. If the petitioner is entitled to the vehicle he has to prove the case and simply he cannot ask for return of the vehicle when the petitioner and other agents are played fraud on the second respondent. The vehicle has been financed by ICICI Bank Limited and the said financier has not been made as party.



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6. On perusing the records and considering the submissions, it is seen that the car bearing Reg.No.TN- 10- BH-8258 has been seized by the first respondent for the alleged crime committed. This writ petition has been filed to hand over the custody of the vehicle to the petitioner. The petitioner has to approach the competent court if at all he is claiming any right over the property. However, this is not a proper forum for return of vehicle. This Court under Article 226 of the Constitution of India, cannot grant the remedy as claimed by the petitioner. Hence, the writ petition is liable to be dismissed.

7. In view of the above stated reasons, this Writ Petition is dismissed. No costs.

23.04.2024

Index:Yes / No
Speaking order / Non speaking order
bkn

To

The Regional Transport Officer,
R.T.O. Office (East)
Erode,
Erode District.



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V. BHAVANI SUBBAROYAN, J.,

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