



WP(MD) No.2589 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.02.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.2589 of 2024

Nallasivam

... Petitioner

/vs./

1.The Superintendent of Police,
Tenkasi District.

2.The Inspector of Police,
V.K.Pudur Taluk,
Tenkasi.

3.Cholamandalam Investment and Finance Company Limited,
Yaanaai Palam,
Tenkasi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd Respondent to hand over the Petitioner's vehicle bearing registration No.TN 76 AS 3487 to the Petitioner recovered from the 3rd Respondent based on the Petitioner's complaint vide CSR.No.587/2023.



WP(MD) No.2589 of 2024

WEB COPY

For Petitioner : Mr.A.B.Jeeva
For R1 & R2 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

ORDER

The learned Counsel for the Petitioner submits that the Petitioner had filed this Writ Petition seeking direction against the second Respondent to hand over the Petitioner's vehicle bearing Reg.No..TN 76 AS 3487 to the Petitioner.

2.It is the submission of the learned Counsel for the Petitioner that the Petitioner is alleged to have purchased a vehicle, Ashok Layland Dosth on loan. The Petitioner had been paying the monthly installments to the third Respondent. Subsequently, the third Respondent offered One Time Settlement, which the Petitioner was unable to exercise, due to COVID-19 pandemic. Taking advantage of the same, the third Respondent is alleged to have seized the vehicle. Therefore, the Petitioner was forced to give a complaint to the second Respondent. Now, the vehicle is in the custody of the second Respondent.

3.The learned Government Advocate (Crl.side), on instructions of the Respondents 1 and 2, submits that the Petitioner is alleged to have purchased mini



WP(MD) No.2589 of 2024

Truck on loan from the third Respondent after entering into a contract for purchase of the property by hypothecation.

4.As per the contract, the Petitioner is alleged to have paid some installments, but subsequently, default. Therefore, the third Respondent was forced to issue notice to the Petitioner giving out warning that on failure to pay balance of installments, the property will be seized. Even after that, the Petitioner had not paid the dues. Therefore, as per the contract of hypothecation entered into between the Petitioner and the third Respondent, the third Respondent had seized the vehicle. As per the same contract, the third Respondent had sold the vehicle in auction. Third parties had purchased the property in public auction. When the third parties, after purchase of the vehicle from the third Respondent, was driving it, the Petitioner is alleged to have stopped the vehicle and took it by force resulting in the second Respondent entering into the same and bringing the property under his custody. Now, the vehicle is in the custody of the second Respondent, as there are rival claims. It is purely civil dispute. The Petitioner is attempting to convert it as a criminal case. Therefore, the learned Government Advocate (Crl.side) seeks to dismiss this petition as having no merits.



WP(MD) No.2589 of 2024

WEB COPY

5.This is not a fit case for exercising the discretion by this Court under Article 226 of the Constitution of India. Therefore, the Writ Petition stands dismissed with a direction to the Petitioner to approach the civil Court for appropriate relief. No costs.

08.02.2024

Index : Yes / No

Internet : Yes / No

mm

TO:

1.The Superintendent of Police,
Tenkasi District.

2.The Inspector of Police,
V.K.Pudur Taluk,
Tenkasi.



WEB COPY



WP(MD) No.2589 of 2024

SATHI KUMAR SUKUMARA KURUP, J.

mm

Order made in
W.P.(MD)No.2589 of 2024

Dated:
08.02.2024