



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-21043-2021 (O&M)

Date of decision: 30.08.2024

Shree Ganesh Construction and another

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Gurcharan Dass, Advocate for the petitioners.

Ms. Niharika Sharma, AAG Punjab.

None for respondents No.4 and 5.

Mr. R.K. Arya, Advocate for respondent No.6.

VINOD S. BHARDWAJ, J. (Oral)

1. The petitioners, as subsequent auction purchaser of the vehicle, have approached this Court impugning the letter dated 06.08.2021 put on website 'mparivahan' by respondent No.3-Regional Transport Authority, Gurdaspur whereby the vehicle purchased by the petitioners in an auction from the Finance Company has been blacklisted on an allegation of theft. It is further contended that the said communication is in violation of the provisions of Motor Vehicles Act, 1988 and that the respondents be further directed to issue a fresh registration certificate in its name. A further prayer has also been made seeking quashing of letter No.2424 dated 03.09.2021 issued by respondent No.3.

2. Briefly summarized the facts of the case are that respondent No.6-Gurjant Singh had availed a loan to the tune of Rs.7,20,000/- from M/s



Shri Ram Transport Finance Company Limited (respondents No.4 and 5) on 31.12.2015. The vehicle i.e. Tata 2518, Model 2009 (Tipper) bearing Chassis No. MAT 4480919305Q2185 was thereafter purchased by respondent No.6 and was allotted registration certificate No. PB-10-CP-1133. The loan amount was repayable in 25 equal installments, however, the respondent No.6 committed a default in making the timely payment of installments. The said vehicle was claimed to have been handed over by respondent No.6 to respondents No.4 and 5 on 05.04.2018. The inventory of the vehicle was duly prepared vide No.746786 dated 05.04.2018 and was also counter-signed by respondent No.6. However, despite handing over of the possession of the vehicle to the respondent-Finance Company, an application was submitted by Joginder Singh (father of respondent No.6-Gurjant Singh) on 11.05.2018 to the Senior Superintendent of Police, Batala against the Manager of the Finance Company alleging that the vehicle had been forcibly taken away by him. The same was marked to the Anti Fraud Staff-1, Batala and allotted No.259-EOW dated 11.05.2018. The statements of the complainant as well as the Branch Manager of the Finance Company were recorded and it was reported in the enquiry report that respondent No.6 had obtained the loan and did not repay the installments. It was concluded that the allegations of the vehicle having been forcibly taken away were without any valid reasons and the same were not true. The application was accordingly recommended to be filed.

3. A notice dated 15.12.2018 was thereafter sent by the Finance Company, through registered post, to respondent No.6-Gurjant



Singh/Borrower and Sucha Singh-Guarantor informing about the balance outstanding amount of Rs.14,35,479.02 (principal + interest). Respondent No.6 was called upon to clear the outstanding amount and to take possession of the vehicle. Similar notice was also sent to the Guarantor to make the payment as per the settlement amongst the parties and to take possession of the vehicle within a period of 10 days, however, neither the outstanding payment was made nor anybody came forth to take possession of the vehicle despite the notices having been sent vide registered posts bearing postal receipts No. RP788530720IN and RP788530565IN. A publication was also got made in the newspaper Uttam Hindu informing the Borrower and the Guarantor to approach the concerned Branch Manager for clearing the outstanding dues and to take back possession of the vehicle, if they so desired, failing which the vehicle shall be put to auction. Apart from the aforesaid measure, an Arbitration case No.39/August 2019 was also filed by respondents No.4 and 5 against respondent No.6 and the Guarantor before the Arbitral Tribunal at Jalandhar. An award was also passed on 24.12.2019 for a sum of Rs.4,64,000/- with interest @6% per annum from the date of filing of the petition till its final realization.

4. It is contended that as the dues were not cleared despite notices and publication, the auction proceedings were held by the Finance Company in which the petitioners participated and gave the highest bid of Rs.4,55,000/- which was eventually accepted. On payment of the total sale consideration, the vehicle was handed over to the petitioners along with all the requisite documents. A letter dated 08.04.2019 was also issued by the



Finance Company to the Regional Transport Authority, Gurdaspur requesting him to delete their name endorsed in the Registration Certificate of the vehicle and to register it in favour of the petitioners and all statutory forms for transfer of the vehicle in favour of the petitioners were also signed. The petitioners submitted an application to the Regional Transport Authority, Gurdaspur for issuance of a Registration Certificate in their favour along with Motor Vehicle Tax with respect to the period 26.02.2019 to the tune of Rs.33,292/- as well as the subsequent period. The hypothecation entry of the vehicle was cancelled by the authority on 02.08.2021, however, instead of sending the Registration Certificate to the petitioners, the same was sent through post to respondent No.6-Gurjant Singh, after entering the said certificate in his name and without going through the documents issued by respondents No.4 and 5 in favour of the petitioners name and notwithstanding all other requisite documents submitted by the petitioners for registration of the said vehicle. A false application was thereafter submitted by respondent No.6 to the Regional Transport Authority, wherein he claimed and informed that the vehicle bearing Registration No. PB-10-CP-1133 had been stolen by some unidentified persons on 05.04.2018 and it was mentioned that a suit for declaration had been already filed by him before the Civil Court which is still pending and that it be not transferred in favour of any other person.

5. That on receipt of the aforesaid application from respondent No.6, the Regional Transport Authority, Gurdaspur blacklisted the transfer of the above said vehicle, without providing any opportunity of hearing to



the petitioners. A detailed representation/application was thereafter submitted by the petitioners to the Regional Transport Authority, Gurdaspur on 19.08.2021 regarding the said vehicle, for carrying out the necessary correction along with the proof of having paid all fee, taxes, penalties and applied for the NOC and transfer of the vehicle in his favour also. It was also pointed out that respondent No.6 took illegal benefit of erroneous registration of the vehicle, after deletion of the hypothecation, in his favour and that the application had been submitted by the petitioners for correction and to transfer vehicle in his favour but the vehicle was illegally and wrongly blacklisted, without there being any provision in this regard under the Motor Vehicles Act, 1988.

6. The notice of the aforesaid application was sent to respondent No.6 calling upon him to clear the dues and to rebut the documents and the claim raised by the petitioners, in its representation dated 19.08.2021, failing which the vehicle in question would be removed from the black list. The petitioners were thereafter informed by the Regional Transport Authority, Gurdaspur that Joginder Singh, father of respondent No.6-Gurjant Singh, had appeared and submitted the copy of the case pending before Court of Addl. Civil Judge (Sr. Divn.) Batala wherein the next date of hearing was 19.10.2021 and requested that no action be taken regarding the vehicle in question till the decision of the Court case.

7. Faced with the above, learned counsel for the petitioners moved an application on 08.09.2021 before respondent No.5-Finance Company requesting them to either take back the vehicle or to move an appropriate



detailed clarification to the Regional Transport Authority, Gurdaspur with a request to remove the vehicle from the blacklist. Accordingly, a detailed letter was sent by respondent No.5 on 15.09.2021 for carrying out the appropriate rectification to the Regional Transport Authority, Gurdaspur. It was specifically informed that the vehicle had been sold in an open auction after following the due process of law and that the question of blacklisting of the same does not arise. He further contends that the Civil Suit that had been filed by respondent No.6 against respondents No.4 and 5 was in relation to declaration to the effect that award dated 24.12.2019 passed by the Arbitrator is illegal, null & void and inoperative and having no force in the eyes of law. The said Civil Suit was not filed for seeking any declaration about the vehicle having been wrongly repossessed and having been auctioned. Hence, the pendency of the said Civil Suit No.72 of 17.01.2020 has no bearing on the auction that had been conducted in which the petitioners are the auction purchaser.

8. Failing to find any valid response from the respondents, the petitioners approached this Court.

9. On notice, respondent No.6-Gurjant Singh filed his written statement wherein the factual aspects have not been denied in relation to the loan having been obtained from respondents No.4 and 5 and also about the vehicle having been repossessed. It was however alleged that the vehicle was forcibly taken away by the representatives of respondents No.4 and 5 in connivance with the authorities.



10. A separate reply on behalf of respondents No.1 and 3 has been filed through the Secretary, Regional Transport Authority, Gurdaspur. As per the said reply, the factual aspects noticed above have not been disputed and the only reason for passing the said order cited is on account of pendency of the proceedings in Civil Suit No.72 of 2020 before the Addl. Civil Judge (Sr. Divn.) Batala.

11. Learned counsel for the petitioners has argued that the factual aspects of the case are not a subject matter of dispute and that the only reason for passing of the said order and not registering the vehicle in the name of petitioners is on the account of the pendency of the Civil Suit for declaration filed by respondent No.6. He refers to sub-Section 5 of Section 51 of the Motor Vehicles Act, 1988 to contend that since the petitioners have purchased the vehicle in the auction, the fresh certificate of registration ought to be issued with respect to the said vehicle, on submission of the requisite documents and the applicable charges, fees as well as penalties for the remaining period for which the said object would otherwise have been forced in favour of the petitioners. He contends that the statutory provisions have been grossly ignored by the Regional Transport Authority, Gurdaspur. A reference is also made in the head-note of the Civil Suit No. 72 that had been filed by respondent No.6. The same is extracted as under:-

“Suit for Declaration to the effect that alleged award dated 24/12/2019 passed by defendant No.3 against the plaintiff is illegal, null and void, inoperative having no force in the eyes of law passed in the absence of the plaintiffs



without authority and misusing her powers as an advocate.”

12. The prayer is for decreeing the suit in terms and conditions as mentioned in the heading of the plaint with costs. It is thus argued by the counsel for the petitioners that the suit for declaration has been filed only to raise a challenge to the arbitral award dated 24.12.2019 whereby a sum of Rs. 4,64,000/- approximately has been decreed against respondent No.6. He contends that the aspect of repossession of the vehicle and/its subsequent auction in favour of the petitioners is not a subject matter of challenge in the said Civil Suit and hence, there was no bar for registration of the vehicle in the name of the petitioner. He further submits that no interim injunction has been granted by the Civil Court against the Regional Transport Authority, Gurdaspur to maintain status quo with respect to the registration of the vehicle in question.

13. Learned counsel for the respective respondents on the hand have placed reliance upon the Civil Suit that stands instituted. They however do not dispute that there is no interim order passed with respect to status quo to be maintained qua the registration of the vehicle in question. It is also not disputed that the said Suit is in relation to a declaration against the award dated 24.12.2019 passed by the Sole Arbitrator in favour of respondent-Finance Company.

14. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

15. On going through the said documents and the respective submissions raised by the learned counsel for the parties, I am of the opinion



that the reasons cited by the Regional Transport Authority, Gurdaspur for blacklisting of the vehicle and not transferring the vehicle in favour of the petitioners are not only fallacious but also unsustainable in the eyes of law. The reliance on the pendency of the Civil Suit is misplaced. The subject matter of the Civil Suit has no concern with the transfer of the vehicle in favour of the petitioners, who is an auction purchaser of the vehicle pursuant upon the repossession of the said vehicle by the Finance Company. Since none of the auction proceedings and the transfer/execution of the documents in favour of the petitioners by the Finance Company are a subject matter of dispute, it did not lie with the Regional Transport Authority, Gurdaspur not to grant NOC and transfer the registration certificate in favour of the petitioners once all the requisite documents had been issued by the Finance Company in favour of the petitioners. The respondents have taken this stand only as a cover-up of their illegalities and have failed to take into consideration that the hypothecation was erroneously removed without considering the documents that had been submitted by the petitioners for seeking transfer of registration in their name and instead the registration certificate was issued in favour of respondent No.6 on the documents, that were furnished by the petitioners for seeking removal of the hypothecation, after having purchased the said vehicle in an open auction. Even otherwise, a mere pendency of a Civil Suit would not have stood as a bar against the respondent-authorities in taking a decision in accordance with the provisions of the Motor Vehicles Act, 1988. It seems that the Regional Transport Authority, Gurdaspur has proceeded on an assumption that institution of



proceedings before the Civil Court are *per se* a stay of proceedings and restrained the respondents from transferring registration certificate in favour of any other person. The respondent- the Regional Transport Authority, Gurdaspur is not even a party in the said *lis* and there is no interim or final prayer that had been made to maintain a status quo with respect to the title of the vehicle or against transfer of said vehicle/carrying out any correction in the name of the registered owner of the said vehicle. The action of the respondents do not have any force and the same is not in accordance with the mandate of the Motor Vehicles Act, 1988.

16. A mere pendency of a Civil Suit in which the subject matter of challenge is entirely different and does not relate to re-possession or subsequent sale of the vehicle in favour of an auction purchaser, cannot be the basis for not executing the proper documents as per law. A lawful owner cannot be denied registration of vehicle in his name once all necessary documents are already furnished and there is no restraint against such transfer by any competent Court. The respondents cannot defend their wrongful act of removing the hypothecation in favour of respondent No.6, without considering all documents including those reflecting transfer of ownership in favour of the petitioners. They have also failed to refer to any statutory provision to justify their act.

17. The impugned orders/letters are accordingly **set aside**. The respondents are directed to issue appropriate registration certificate and NOC in favour of the petitioner within a period of 03 months of receipt of certified copy of this order.



18. **The present writ petition is accordingly allowed.**
19. **All pending civil misc. application(s), if any, stand disposed**
of.

30.08.2024
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No