

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.2818 of 2022

Rajendra Kumar Jena

....

Petitioner

-versus-

*Regional Transport Officer (RTO),
Chandikhol, Jajpur, Odisha and
another*

....

Opposite Parties

CORAM: JUSTICE S. PUJAHARI

ORDER

31.03.2022

Order

No.

02.

1. This matter is taken up through hybrid mode.
2. This writ petition has been filed by the Petitioner with a prayer to quash the demand of dues from 1st October, 2012 to 31st January, 2015 made by the Opposite Party No.1- Regional Transport Officer (RTO), Chandikhol vide Annexure-4 with a direction to the Opposite Party No.1- Regional Transport Officer (RTO), Chandikhol to grant road permit against the vehicle bearing Registration No.OR-04-D-8862 within a stipulated period, as he being the transferee not liable to the tax and penalty of the earlier owner and, as such, blacklisting of the vehicle on that ground is illegal.
3. In support of his prayer, has placed reliance on a decision of this Court rendered in the case of *Bishnu Mohan*

Jena v. Regional Transport Authority and others, report in 1996 (II) OLR 569.

4. However, learned counsel for the Transport Department would oppose the same and also has drawn the notice under Section 12 of the Orissa Motor Vehicles Taxation Act, 1975.

5. I have gone carefully through the aforesaid decision rendered by this Court. But the said decision of this Court does not help the Petitioner in any manner inasmuch as the same was rendered in different facts and situation that was in an auction purchase of the hypothecated vehicle made by the OSFC wherein it was clearly stipulates that the auction purchaser was not liable for the past arrear, if any, in respect of the dues of the transport authority against the said vehicle. This Court in the said decision also clearly stated that a bare reading of Section 12(2) of the Orissa Motor Vehicles Taxation Act, 1975 clearly indicates that the liability of the person who has transferred the ownership or has ceased to be in possession or control of the vehicle for the period during which the vehicle was under his possession or control, continues. Under sub-section (1) however, it is made clear that subsequent transferee or the person in possession or control of the vehicle is also liable to pay the arrear taxes which are otherwise payable by the original owner/possessor

under sub-section (2). It is axiomatic that if the subsequent purchaser has to pay an arrear tax otherwise payable by the original owner, he has the right to realize the same.

6. Therefore, in view of Section 12(2) of the Orissa Motor Vehicles Taxation Act, 1975, he is not liable to pay the tax of the previous owner. Hence, withholding to grant road permit to him was illegal and improper appears to be without substance.

7. Accordingly, this petition is devoid of merit and, as such, the stands dismissed.

(S. Pujahari)
Judge

DA

