



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 12334 OF 2021 (MV)

BETWEEN:

M/S APNA MOTOR FINANCE,
NO.60 KILON ROAD,
2ND FLOOR BANGALORE -560 053,
BY ITS PROPRIETOR KUSHALRAJ DOSHI.

...PETITIONER

(BY SRI HAREESH BHANDARY T.,ADVOCATE)

AND:

1. KARNATAKA STATE TRANSPORT AUTHORITY,
5TH FLOOR, MULTI STORIED BUILDING,
DR AMBEDKAR VEEDHI,
BENGALURU-560 001,
REPRESENTED BY ITS SECRETARY.
2. THE DEPUTY COMMISSIONER,
FOR TRANSPORT AND SENIOR REGIONAL
TRANSPORT OFFICER,
RTA OFFICE (CENTRAL),
BDA COMPLEX, KORAMANGALA,
BENGALURU CITY-560039.
3. THE REGIONAL TRANSPORT OFFICER,
(CENTRAL)KORAMANGALA,
BENGALURU-560039.
4. SRI NAGADEEP P B,
S/O BRAHMAPPRA,
AGED ABOUT 35 YEARS,
R/AT NO.12, 4TH CROSS
ATTUR MAIN ROAD, MUNESHWARA BADAVANE,
BENGALURU-560039.

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5. SRI ANANDA KUMAR N,
S/O NAGARAJAPPA,
AGED ABOUT 42 YEARS,
NO.26 1ST MAIN, IST CROSS
HANUMAN LAYOUT, VIRUPAKSHAPURA,
BENGALURU NORTH -560 017.
6. SRI KANTHARAJ YADAVU,
S/O GANGADHARAPPA,
AGED ABOUT 32 YEARS,
GUNJUR GHATISUBRAMANYA POST,
THONDEBHAVI, DODDABALLAPURA TQ,
BENGALURU-561 203.
7. SRI CHALAPATHY,
S/O ASHWATHAPPA,
R/AT 12, 4TH CROSS
ATTUR LAYOUT, NEAR AKSHYA HOSPITAL,
YELAHANKA BENGALURU-560 064.
8. MANIPURAM FINANCE LTD.,
NO.21/1 4TH FLOOR,
JELITTA TOWAR, MISSION ROAD,
BENGALURU - 560 027,
BY ITS MANAGER.

...RESPONDENTS

(BY SRI S H RAGHAVENDRA, AGA FOR R1 TO R3,
RESPONDENT NOS. 6 AND 8 ARE SERVED & UNREPRESENTED
V/O/DT: 06.09.2022 R4, R5, R7 ARE SERVED THROUGH HAND
SUMMONS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
DIRECTING THE AUTHORITY TO RESTORE THE REGISTRATION
CERTIFICATE (RC) TO ITS ORIGINALITY BY INVOKING
SECTION 55(5) OF THE MOTOR VEHICLES ACT, THEREBY TO
CONSIDER THE REPRESENTATIONS AT ANENXURE-G-G1.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING
IN 'B' GROUP THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:



CORAM: HON'BLE MR JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

1. This petition is filed to issue writ of mandamus directing the respondent authorities to restore the Registration Certificate of the lorry bearing Regn.No.KA-28/B-6803(Ashok Leyland) as it stood as on the date of hypothecation to the petitioner's finance.

2. Learned counsel appearing for the petitioner taking through the pleadings would contend that the aforementioned vehicle was purchased by respondent No.4 after availing finance from the petitioner and the vehicle was hypothecated to the petitioner-finance. It is submitted that the respondent No.4 defaulted and the vehicle was seized and the petitioner-finance has taken the custody of the vehicle and the vehicle is in custody of the petitioner-Finance. He would further submit that respondent No.4 by creating false documents transferred the vehicle to 7th respondent as if there is no hypothecation on the said vehicle and 7th respondent availing finance from 8th respondent has purchased the vehicle and the hypothecation of respondent No.8 is recorded in the Registration Certificate, which by now stood in the name of



respondent No.7. Petitioner, having noticed this fraudulent act by respondents No.4 and 7 lodged a complaint to the police, police registered FIR and after investigation have filed charge sheet.

3. Referring to Section 55 of the Motor Vehicles Act, 1988, (for short the "Act of 1988") learned counsel for the petitioner would urge that it is brought to the notice of the registering authority that after issuing notice to the owner, the registration certificate is to be cancelled. It is his submission that the representation so made by the petitioner is not yet considered by the respondents No.2 and 3. Thus, he would contend that a writ of mandamus be issued to hold necessary enquiry as required under Section 55 of the Act of 1988.

4. Learned counsel appearing for the State would contend that in case, the petitioner is aggrieved by any previous registration, his remedy is to file an appeal under Section 57 of the Act of 1988.

5. The remaining respondents though served have remained absent.



6. This Court has considered the contentions raised at the bar and perused the records.

7. Prima facie, it appears that the vehicle referred to above was purchased by 4th respondent after obtaining finance from the petitioner. Accordingly, hypothecation is in favour of the petitioner-finance. It is also forthcoming that complaint is lodged before the police and the police have registered FIR, alleging forgery. Though, it is stated that the charge sheet is filed, charge sheet is not produced before this Court. Nevertheless, the complaint is registered. It is further stated that the vehicle stands in the name of 7th respondent, who claims to have purchased it from 4th respondent and the said vehicle is hypothecated to 8th respondent.

8. Since the petitioner is alleging that the hypothecation of the vehicle to petitioner-finance is cancelled using forgery document fraud and the vehicle is transferred to the 7th respondent based on the fraudulent documents, an application is filed under sub-section 5 of Section 55 of the Act of 1988. Said provision would mandate that the registration authority to cancel the registration in case the same is based



on false documents. Since it is alleged that the registration is made based on false documents, registering authority is required to hold the inquiry as required under Sub-section 5 of Section 55 of the Act of 1988. The said procedure is not followed.

9. Though, learned Government Advocate would contend that the order is appealable, it is required to be noticed that no notice is issued to the petitioner under Sub-section 5 of Section 55 of the Act of 1988 before cancelling the hypothecation in the name of petitioner-Finance. Under these circumstances, the writ petition is entertained despite an alternative remedy.

10. Hence the following:

ORDER

i. Writ petition is ***allowed***.

ii. A direction is issued to 3rd respondent to hold an enquiry on the basis of the representation made by the petitioner marked at Annexures G and G1.



iii. It is made clear that 3rd respondent - authority shall issue notice to respondents No. 4, 7 and 8 before passing the order in the proceeding and the petitioner should also be heard.

iv. It is further made clear that nothing is expressed on the merits of the matter.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

BRN
List No.: 1 Sl No.: 28