
(2021) 08 OHC CK 0050

In the Orissa High Court

Case No : Writ Petition (Civil) No. 22849 Of 2021

Binod Kumar Parida

APPELLANT

Vs

R.M. RBI And Another

RESPONDENT

Date of Decision : 11-08-2021

Acts Referred:

Citation : (2021) 08 OHC CK 0050

Hon'ble Judges : K.R. Mohapatra, J

Bench : Single Bench

Advocate : Braja Mohan Sarangi

Final Decision : Allowed

Judgement

Â K.R.Mohapatra, JÂ Â

1.This matter is taken up through hybrid mode.

2. The Petitioner in this writ petition assails the forceful seizure of the vehicle bearing registration No.OD-04H-9713 (Truck) by Opposite Party No.2-

Branch Manager, Cholamandalam Inv. Fin. Ltd., Paradip Branch, Paradip.

3. Mr. Sarangi, learned counsel for the Petitioner submits that due to non-payment of regular installments with regard to the aforesaid vehicle, the

same has been seized by Opposite Party No.2 without following the guidelines given by the Honâ??ble Supreme Court inI CICI Bank Ltd. Vs.

Prakash Kaur and others, reported in (2007) 2 SCC 711. He further submits that the Petitioner had not moved this Court earlier in respect of the

aforesaid vehicle in relation to the loan amount in question.

4. In course of hearing, Mr. Sarangi, learned counsel for the Petitioner submits that the Petitioner is ready and willing to pay 50% of the total

outstanding loan dues as on date and in that event, the vehicle may be released in his favour. He also undertakes to pay the monthly installments

regularly on rephasing of his loan amount.

5. The writ application against a private finance company is not maintainable in view of the ratio decided in Federal Bank Ltd -vs- Sagar Thomas &

Ors, reported in 2003(III) CLR 801. However, since the Petitioner is ready and willing to pay 50% of the total outstanding loan dues, this Court

entertains the writ petition.

6. Taking into consideration the submission of learned counsel for the Petitioner and the fact that the Petitioner is earning his livelihood from the

vehicle bearing registration No.OD-04H-9713 (Truck) as well as the pandemic of COVID-19, this Court disposes of the writ petition with a direction

that in the event the Petitioner deposits 50% of the total outstanding loan dues as on date with the Opposite Party No.2-Financer within a period of

four weeks hence, the vehicle bearing registration No.OD-04H-9713 (Truck) shall be released in his favour. The Petitioner shall also file an

undertaking before Opposite Party No.2-Financer to the effect that he shall pay the monthly installments regularly on rephasing of the rest of the

loan amount. The Petitioner shall be provided with the details of outstanding loan amount within two days from the date of filing of an application to

that effect.

7. It is made clear that on failure on the part of the Petitioner to pay the installments regularly after rephasing, the Opposite Party No.2-Financer

would be at liberty to take over the possession of the vehicle in question.

8. Urgent certified copy of this order be granted on proper application.

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