
(2021) 11 OHC CK 0124
In the Orissa High Court
Case No : RVWPET No.189 Of 2021

Mahindra And Mahindra Financial Services Ltd. (Business Head)

APPELLANT

Vs

Binod Kumar Bhawsinka And Another

RESPONDENT

Date of Decision : 18-11-2021

Acts Referred:

Citation : (2021) 11 OHC CK 0124

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

Bench : Single Bench

Advocate : Prabir Kumar Ray, Suman Modi

Final Decision : Disposed Of

Judgement

K.R.Mohapatra, J

1. This matter is taken up through hybrid mode.
2. This application has been filed with a prayer to review the order dated 13th September, 2021 passed in W.P.(C) No.27569 of 2021 by which the writ petition was disposed of with a direction that in the event the Petitioners therein deposit 50% of the outstanding loan dues as on that date within a period of period of four weeks therefrom, the vehicle in question, i.e. OD-09-G-8301 shall be released. They were also directed to file undertaking before the Financer to pay the monthly installments regularly on rephasement of rest of the EMIs.
3. It is submitted by Mrs. Modi, learned counsel for the Opposite Parties (writ Petitioners) that the Opposite Party (writ Petitioners) have already deposited 50% of the outstanding loan dues on 1st October, 2021, i.e. within the period stipulated pursuant to the direction of this Court, but the vehicle was not released. She further submits that deducting TDS amount of Rs.99,112/-, outstanding loan dues in respect of the vehicle bearing Registration No.OD-09-G-8301 (Tata Hitachi Wheel Loader) will be Rs.1,31,086/-. The Opposite Parties (writ Petitioners) are ready and willing to deposit the said amount by 22nd

November, 2021 and prays for grant of N.O.C. in respect of the said vehicle.

4. Mr. Ray, learned counsel for the review Petitioner (Financer) submits that the Opposite Parties (writ Petitioners) have taken financial assistance from the review Petitioner (Financer) in respect of another vehicle bearing Registration No. OD-09-G-7801 (Tata Hitachi Wheel Loader) and the outstanding loan dues in respect of the said vehicle is Rs.16,63,488/- . The Opposite Parties-writ Petitioners are not clearing up the said loan dues. In view of the lien clause in the loan agreement, the vehicle bearing Registration No.OD-09-G-8301 (Tata Hitachi Wheel Loader) cannot be released in their name. If the writ Petitioners pay 50% of the outstanding loan dues in respect of vehicle bearing Registration No.OD-09-G-7801 (Tata Hitachi Wheel Loader) and file an undertaking to pay rest of the EMIs regularly, release of the vehicle bearing Registration No.OD-09-G-8301 (Tata Hitachi Wheel Loader) can be considered.

5. Mrs. Modi, learned counsel for the Opposite Parties-writ Petitioners submits that the Opposite Parties (writ Petitioners) are ready and willing to deposit Rs.4,00,000/- in respect of the vehicle bearing Registration No.OD-09-G-7801 (Tata Hitachi Wheel Loader) by 26th November, 2021 and requires another six months to clear up balance outstanding loan dues in respect of the said vehicle.

6. Taking into consideration the submissions made by learned counsel for the parties and keeping in view the unforeseen situation created due to pandemic of COVID-19, this Court directs that if the Opposite Parties (writ Petitioners) deposit a sum of Rs.1,31,086/- (Rupees one lakh thirty one thousand eighty six) only in respect of the vehicle bearing Registration No.OD-09-G-8301 (Tata Hitachi Wheel Loader) by 22nd November, 2021, the said vehicle shall be released in favour of the Opposite Parties (writ Petitioners) forthwith and N.O.C. in respect of the said vehicle shall be granted by 15th

7. It is further directed that the Opposite Parties (writ Petitioners) shall pay a sum of Rs.4,00,000/- (Rupees four lakh) only towards the outstanding loan dues in respect of the vehicle bearing Registration No.OD-09-G-7801 (Tata Hitachi Wheel Loader) by 26th November, 2021 and file an undertaking to clear up rest of the loan dues within a period of six months. If the Opposite Parties (writ Petitioners) do not pay the amount in respect of the vehicle bearing Registration No.OD-09-G-7801 (Tata Hitachi Wheel Loader), as aforesaid, the review Petitioner (Financer) will be at liberty to take possession of the vehicle bearing Registration No.OD-09-G-8301 (Tata Hitachi Wheel Loader) in accordance with law.

7. Accordingly, this writ petition is disposed of.

Urgent certified copy of the order be granted on proper application.

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