

iqbal Singh Vs. Dhanwant Singh and ors

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Court : Delhi

Decided On : Mar-12-2013

Judge : Suresh Kait

Appellant : iqbal Singh

Respondent : Dhanwant Singh and ors

Judgement :

\$~34 * IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:12th March, 2013 % + CM(M) No. 279/2013 IQBAL SINGH Petitioner Through: Mr.B.K.Srivastava, Advocate. Versus DHANWANT SINGH & ORS Through: Respondents None. CORAM: HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

(Oral) CM No. 4163/2013 (for exemption) Exemption allowed, subject to all just exceptions. The application stands disposed of. CM(M) No. 279/2013 1. Vide this petition, the petitioner is seeking quashing of the order dated 02.11.2012, whereby an application under Order 1 Rule 10(2) CPC to implead Shri Sarvesh Pal, the subsequent purchaser of the vehicle bearing No. DL-1W-0048 from the petitioner has been dismissed by the learned Tribunal.

2. Learned counsel appearing on behalf of the petitioner submitted that the said Sarvesh Pal filed an affidavit at the time of taking the vehicle on superdari, wherein he stated that he purchased an auto bearing No. DL-1W0048 from Iqbal Singh/petitioner, which was managed and financed by one Shri Tufan Singh,

Agent of Dandona Finance Limited at 54 C.G. Road, Pahargang, New Delhi, for which he was required to pay 36 monthly instalments of Rs.6,845/- each.

3. It is further submitted that the said Sarvesh Pal filed a suit bearing No. 153/2009 against Shri Tufan Singh and Shri Sanjeev Dandona, Proprietor/Director of Dandona Finance Limited.

4. For the reasons mentioned above, the petitioner moved an application under Order 1 Rule 10(2) CPC to implead Shri Sarvesh Pal. Also submitted that the case is coming up tomorrow i.e. 13.03.2013 for hearing before the learned Tribunal.

5. He further submitted that the learned Tribunal has passed the impugned order dated 02.11.2012 as under: 02.11.2012 Present: Sh. Rakesh Kumar, counsel for the petitioner. Sh. Vineet Aggarwal, counsel for owner. Sh. Brijesh Bagga, counsel for insurance company. Appearance on behalf of driver not received. WS along with an application u/o 1 Rule 10 read with section 151 CPC filed on behalf of R2. Copy supplied. It is claimed by the owner that the vehicle had been sold in the month of June, 2007 to one Sarvesh Pal and subsequent to the accident, he moved an application for taking the vehicle on superdari, which was allowed by the court of Sh. Munish Markan, Lf. MM, while the RC still remained in the name of the present owner. A prayer has been made for impleading the purchaser Sarvesh Pal as a party to the present proceedings. In view of above, as per settled law the owner cannot be discharged from the proceedings since the RC still survives in his name. The application is accordingly disposed of as rejected. Submissions have already been addressed on behalf of counsel for the petitioner as well as that of insurance company. Appearance on behalf of driver at this stage not received. Be awaited for driver. (NIRJA BHATIA) PO-MACT-02 (SE) 02.11.2012 6. On perusal of the said order, it seems that the learned Tribunal has presumed that if the application of the petitioner is allowed, he will be discharged from the liability.

7. No doubt, liability is of the registered owner, but if the subsequent purchaser takes the responsibility of the vehicle and the same was given to the authorised driver for plying, then there is no harm if the registered owner of the vehicle is discharged from the liability.

8. Though the present case, at this stage, does not fall in that category, however, I am of the view that the application filed by the petitioner deserves to be allowed and Shri Sarvesh Pal should be impleaded as party.

9. In view of the above, I set aside the impugned order dated 02.11.2012 and allow the instant petition.

10. Consequently, Shri Sarvesh Pal is impleaded as party. Learned counsel for the petitioner shall file amended memo of parties before the learned Tribunal.

11. In view of the above, the present petition stands disposed of. CM No. 4164/2013 (for stay) With the disposal of the petition itself, this application has become infructuous. The same is accordingly disposed of. A copy of this order be given dasti to the learned counsel for the petitioner under the signatures of the Court Master. SURESH K AIT, J.

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