

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 8th OF MAY, 2024

WRIT PETITION No. 11732 of 2024

BETWEEN:-

**MAHINDRA AND MAHINDRA FINNCIAL
SERVICES LTD. THROUGH ITS AREA MANAGER
BEUTL GANJ BETUL M.P. PERMANENT
ADDRESS- E2 KARTAR TOWER ARERA COLONY
ARERA HILLS BHOPAL (MADHYA PRADESH)**

....PETITIONER

(BY SHRI RAJESH MAINDIRETTA - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH
DEPARTMENT OF TRANSPORT AND
HIGHWAY NOT MENTION (MADHYA
PRADESH)**
- 2. ROAD TRANSPORT OFFICER BETUL
DISTRICT BETUL (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI MOHAN SAUSARKAR – GOVERNMENT ADVOCATE)

*This petition coming on for admission this day, the court passed
the following:*

ORDER

- 1. This petition under Article 226 of the Constitution of India has been filed
seeking the following reliefs :-**

***(i) Mandamus – directing the Respondent No. 2 to
consider and decide the representation of the***

petitioner dated 06.07.2023 within stipulated time (P/6).

(ii) Mandamus – directing the Respondent no.2 to restore the hypothecation and also restore the names of the borrowers / beneficiaries in respect of aforesaid vehicles.

(iii) And/ or grant any other relief as deemed fit by this Hon'ble High Court.

2. It is the case of the petitioner that the petitioner is a company incorporated under the Indian Companies Act, having its registered office at Apollo Bunder, Mumbai and the petitioner is a Non-Banking Financial Institution engaged in the business of Hire Purchase Financing of Vehicles. Four vehicles bearing registration no. MP48T-0886, MP48T-0862, MP48C-5322 and MP48T-0932 were hypothecated on different amounts. The customers availed the finance from the petitioner and purchased the aforesaid vehicles which were duly hypothecated with the petitioner. However, without making repayment of the loan amount and on the basis of forged NOC, Sheikh Sajju, Jitendra Thakur, Rajesh Bundela and Mohd. Aftap Khan who had purchased the aforementioned vehicles, got the hypothecation favouring petitioner cancelled from the office of the Regional Transport Officer and have sold the same to some other persons.
3. It is submitted that the petitioner has already lodged an FIR at Police Station Betul Ganj, District Betul, for offence under Sections 420, 467, 468, 471, 120-B and 34 of IPC. The petitioner has made an application for restoration of hypothecation to respondent no. 2. However, respondent

no. 2 is not taking any action in the matter and, therefore, present petition has been filed.

4. *Per contra*, petition is vehemently opposed by counsel for the State. However, it is submitted that in case, if application is pending, then it shall be decided in accordance with law.
5. Heard learned counsel for the parties.
6. Only contention of the petitioner is that since hypothecation in favour of the petitioner was got cancelled on the basis of forged NOC, therefore, the petitioner has filed an application for restoration of hypothecation in the records of the transport department and the said application is pending.
7. Accordingly, this petition is **disposed of** with a direction that in case, if the application is pending and has not been decided so far, then respondent no. 2 shall positively decide the application within a period of one month after giving due information to all the necessary parties.
8. However, it is made clear that this Court has not considered the merits / demerits of the claim of the petitioner and the application shall be decided strictly in accordance with law without getting influenced or prejudiced by this order.

(G.S. AHLUWALIA)
JUDGE

JP