

देवराज नागर,
आई.पी.एस.



पुलिस महानिदेशक,
उत्तर प्रदेश,

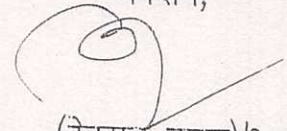
1-तिलक मार्ग, लखनऊ
दिनांक:लखनऊ:सितम्बर 13 ,2013

विषय- व्यवसायिक बैंकों/वित्त पोषकों द्वारा दिये गये ऋणों की वसूली हेतु अवैध रूप से जनशक्ति (Recovery Agents)का प्रयोग रोके जाने के सम्बन्ध में कार्यवाही हेतु दिशा-निर्देश।

प्रिय महोदय,

कृपया इस मुख्यालय द्वारा पूर्व में निर्गत अर्द्धशताब्दीपरिपत्र संख्या:डीजी-43/2013 दिनांक 05.08.2013 का सन्दर्भ ग्रहण करे। मा० सर्वोच्च न्यायालय द्वारा सूर्यपाल सिंह बनाम सिद्ध विनायक मोटर्स एवं अन्य III(2012) CRI 4(SC) विशेष अनुज्ञा याचिका संख्या: 5302/2012 में पारित निर्णय दिनांक 21.02.2012 के क्रम में उक्त परिपत्र के प्रस्तर-3 के बिन्दु संख्या-3 "Financers द्वारा सीज किये गये वाहनों को वाहन स्वामियों को दिलवाया जाय," इसे विलुप्त किया जाता है एवं शेष परिपत्र पूर्ण की भाँति ही रहेगा। सुलभ सन्दर्भ हेतु मा० सर्वोच्च न्यायालय द्वारा सूर्यपाल सिंह बनाम सिद्ध विनायक मोटर्स एवं अन्य में पारित निर्णय दिनांक 21.02.2012 की प्रति संलग्नकर प्रेषित है।

भवदीय,


(देवराज नागर)/3-9-13

समस्त वरिष्ठ पुलिस अधीक्षक/पुलिस अधीक्षक(नाम से),
प्रभारी जनपद(नाम से)
उत्तर प्रदेश।

संलग्नक:यथोपरि।

प्रतिलिपि-निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

- 1.पुलिस महानिदेशक, रेलवे, उ०प्र० लखनऊ।
- 2.अपर पुलिस महानिदेशक, सी०बी०सी०आई०डी०, उ०प्र० लखनऊ।
- 3.अपर पुलिस महानिदेशक, तकनीकी सेवाएं,उ०प्र० लखनऊ।
- 4.पुलिस महानिरीक्षक, समस्त जोन, उ०प्र०।
- 5.पुलिस उपमहानिरीक्षक, समस्त परिक्षेत्र, उ०प्र०।

4 (SC)

CONSUMER PROTECTION JUDGMENTS

(July) 2012

III (2012) CPJ 4 (SC)

SUPREME COURT OF INDIA

Dr. E.S. Chauhan & Jagdish Singh Khehar, JJ.
SURYAPALSINGH
versus

—Petitioner

SIDDHA VINAYAK MOTORS & ANR.

—Respondents

Petition for Special Leave to Appeal (Civil) No. 5302 of 2012—Decided on 27.2.2012

Consumer Protection Act, 1986 — Sections 2(1)(g), 23 — Hire Purchase Agreement — Non-payment of instalments — Repossession of vehicle — Grant of compensation — Under hire purchase agreement, it is the financier who is the owner of vehicle and the person who takes the loan retains the vehicle only as bailee/trustee — Taking possession of vehicle on ground of non-payment of instalment is legal right of the financier — Court below committed error in granting compensation to petitioner — Order set aside [Paras 1, 3]

Result: Petition allowed.

Cases referred:

1. *Trilok Singh & Ors. v. Satya Deo Tripathi*, AIR 1979 SC 850. (Relied) [Para 2]
2. *K.A. Mathai @ Babu & Anr. v. Kora Bibbikutty & Anr.*, 1996 (7) SCC 212. (Relied) [Para 2]
3. *Jagdish Chandra Nijhawan v. S.K. Saraf*, IX (1998) SLT 477=IV (1998) CCR 118 (SC). (Relied) [Para 2]
4. *Charanjit Singh Chadha & Ors. v. Sudhir Mehra*, VI (2001) SLT 883=III (2001) CCR 232 (SC). (Relied) [Para 2]
5. *Sundaram Finance Ltd. v. The State of Kerala & Anr.*, AIR 1966 SC 1178. (Relied) [Para 2]
6. *Lalmini Devi v. State of Bihar & Ors.*, I (2001) SLT 26=I (2001) CCR 9 (SC). (Relied) [Para 2]
7. *Balwinder Singh v. Asstt. Commissioner, V (2005) SLT 195=III (2005) CCR 8 (SC)*. (Relied)[Para 2]

Counsel for the Parties:

For the Petitioner : Mr. Rajeev Kumar Bansal and Mr. M.P. Singh, Advocates.

For the Respondents : None.

ORDER

1. This petition has been preferred against

the judgment and order 19.10.2011 of the National Consumer Disputes Redressal Commission. *Prima facie* it appears that the three Courts below erred in not considering the facts of the case in correct perspective. Under the Hire Purchase Agreement, it is the financier who is the owner of the vehicle and the person who takes the loan retains the vehicle only as a bailee/trustee, therefore, taking possession of the vehicle on the ground of non-payment of instalment has always been upheld to be a legal right of the financier.

2. This Court vide its judgment in *Trilok Singh & Ors. v. Satya Deo Tripathi*, AIR 1979 SC 850, has categorically held that under the Hire Purchase Agreement, the financier is the real owner of the vehicle, therefore, there cannot be any allegation against him for having the possession of the vehicle. This view was again reiterated in *K.A. Mathai @ Babu & Anr. v. Kora Bibbikutty & Anr.*, 1996 (7) SCC 212; *Jagdish Chandra Nijhawan v. S.K. Saraf*, IX (1998) SLT 477=IV (1998) CCR 118 (SC)=1999 (1) SCC 119; *Charanjit Singh Chadha & Ors. v. Sudhir Mehra*, VI (2001) SLT 883=III (2001) CCR 232 (SC)=2001 (7) SCC 417, following the earlier judgment of this Court in *Sundaram Finance Ltd. v. The State of Kerala & Anr.*, AIR 1966 SC 1178; *Smt. Lalmini Devi v. State of Bihar & Ors.*, I (2001) SLT 26=I (2001) CCR 9 (SC)=2001 (2) SCC 17 and *Balwinder Singh v. Asstt. Commissioner, V (2005) SLT 195=III (2005) CCR 8 (SC)=CCE 2005 (4) SCC 146*.

3. In view of the above, *prima facie* we are of the view that the Courts below has committed an error in granting compensation to the present petitioner and which appears to be non-sustainable in law. In view of the above, issue notice to the petitioner as well as to the respondents why the judgments and order impugned be not set aside. The petitioner is restrained to make any recovery from the respondent of the amount which has been awarded to him by the Courts below.

Petition allowed.