

ITEM NO.35

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).5302/2012

(From the judgement and order dated 19/10/2011 in RP
No.2771/2011 of The NATIONAL CONSUMERS DISPUTES REDRESSAL
COMMISSION, NEW DELHI)

SURYAPAL SINGH

Petitioner(s)

VERSUS

SIDDDHA VINAYAK MOTORS & ANR

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief)

Date: 21/02/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s)

Mr. Rajeev Kumar Bansal, Adv.
Mr. M.P. Singh, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

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 retain the vehicle only as a bailee/trustee, therefore, taking possession of the vehicle on the

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ground of non-payment of instalment has always been upheld to be a legal right of the financier. This Court vide its judgment in Trilok Singh & Ors. vs. 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 alias Babu & Anr. vs. Kora Bibbikutty & Anr. 1996 (7) SCC 212, Jagdish Chandra Nijhawan vs. S.K. Saraf 1999 (1) SCC 119, Charanjit Singh Chadha & Ors. vs. Sudhir Mehra 2001 (7) SCC 417 following the earlier judgment of this Court in Sundaram Finance Ltd. vs. the State of Kerala & Anr. AIR 1966 SC 1178, Smt. Lalmuni Devi vs. State of Bihar & Ors. 2001 (2) SCC 17 and Balwinder Singh vs. Asstt. Commisioner, CCE 2005 (4) SCC 146.

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.

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(O.P. Sharma)
Court Master

(M.S. Negi)
Court Master