

## ORDER SHEET

**IN THE HIGH COURT OF SINDH AT KARACHI****Before:**

Ahmed Ali M. Shaikh, CJ

Yousuf Ali Sayeed, J

CP No.D-5661 of 2021

1. For orders on Misc. No.23803/2021 (urgent)
2. For orders on office objections No.3 and 18
3. For orders on Misc. No.23804/2021 (exemption)
4. For hearing of main case

24.09.2021

Mr. Muhammad Arshad Tariq, Advocate for petitioner.

**AHMED ALI M. SHAIKH, CJ.**- By means of instant petition, petitioner seeks following relief(s)

“a) Declare that the petitioner is registered & lawful owner of the Nissan Dumper Truck bearing Registration No.TKH-979 Chassis No.CW53H-22713, Engine No.RE8-038226, Model 1989, Maker Nissan.

b) Declare that the blocking/sealing of the original record file of the vehicle i.e. Nissan Dumper Truck bearing Registration No.TKH-979, Chassis No.CW53H-22713, Engine No.RE8-038226, Model 1989, Maker Nissan by the Respondent No.1 & 2 is illegal and unlawful and the loan granted by the Respondent No.4 in favour of the Respondent No.5 against the above said vehicle is not binding upon the petitioner and direction may kindly be given to the Respondent No.1 & 2 to produce the complete record of loan obtained by the Respondent No.5 before this Honorable Court and this Honorable Court may kindly be pleased to cancel the same.

c) Direct the Respondent No.2 to open/de-block the record file of the Nissan Dumper Truck bearing Registration No.TKH-979 Chassis No.CW53H-22713, Engine No.RE8-038226, Model 1989, Maker Nissan for sale & transfer of the above said vehicle to any person by the petitioner without fail.

d) Cost of the petition.

e) Any other relief or relives, which this Honorable Court may deem fit and proper under the circumstances, of the case.”

2. Briefly stated facts of the case per memo of Petition are that in the year 2005 petitioner has purchased a Nissan Dumper Truck bearing Registration No.TKH-979, Chassis No.CW53H-22713, Engine No.RE8-038226, Model 1989, Maker Nissan (the "**Subject Vehicle**"). In October, 2005 he got it transferred in his and the Respondent No.2, Excise and Taxation Department, Motor Registration Authority, Lasbella, Balochistan, issued registration book in his name. However, on 01.08.2021 when the petitioner tried to deposit the Motor Vehicle Tax the Respondent No.2 informed that the file of the Subject Vehicle has been blocked under the directions of the Respondent No.1, the Deputy Director (Coord), Financial Crimes Investigation Wing, NAB, Karachi. On inquiry it also appeared that the Respondent No.5, M/s Qalandar & Company in collusion with the Respondent No.4, M/s Askari Leasing Limited Karachi (the "**Leasing Company**") has obtained loan. The petitioner approached the Respondent No.1 for obtaining requisite papers but in vain. However, he has annexed photocopies of one CNIC of Qalandar Khan son of Mehmood Khan, leasing documents, etc with the memo of Petition.

3. Learned counsel for the petitioner submits that the petitioner is a bona fide purchaser and in August, 2021 when he went to deposit the Motor Vehicle Tax, it came to the fore that Registration Book of the Subject Vehicle is blocked. He further submits that the petitioner purchased the Subject Vehicle and got it transferred in his name in the year 2005 while in the year 2006 the Respondent No.5 has fraudulently obtained a facility from the Leasing Company behind his back, therefore, the said sham transaction being not binding on him is null and void. He lastly submitted that the Respondents No.1 and 2 be directed to unblock the Subject Vehicle and the loan obtained by the Respondent No.5 from the Leasing Company be declared void.

4. We have heard the learned counsel for the petitioner and perused the material available on record. To our query that this Court lacked territorial jurisdiction as the Registration Book regarding the Subject Vehicle was issued by the Motor Registration Authority, Lasbella, Balochistan, and cause of action, if any, occasioned there learned Counsel preferred to remain mum. The submission of the learned counsel that as the petitioner is a bonafide purchaser of the Subject Vehicle loan agreement between the Respondent No.4 and 5 is not binding on him is not justiciable in the instant proceedings as this Court in exercise of

Constitutional Jurisdiction under Article 199 cannot look into said factual controversy requiring recording of evidence. From the documents available on record it also appeared that the Subject Vehicle was also subject matter of an investigation being conducted by the NAB against one Mukarram Alam Khan, Ex-Chief Manager of Karachi Branch, Askari Leasing Limited and others. The upshot of the above discussion is that the relief(s) sought in terms of prayers advanced cannot be granted due to lack of territorial jurisdiction and existing factual controversy.

In view of the foregoing, while granting the urgency application, the petition alongwith listed applications stands dismissed.

Chief Justice

Judge