

**In the Court of Commissioner for Persons with Disabilities**  
**25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-2**  
**Phone-23216002-04, Telefax: 23216005**  
**[Vested with power of Civil Court under the Persons with Disability (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995]**

Case No. 4/745/2014-Wel./CD/ 2705-07

Dated: 25-02-2015

**In the matter of :**

**Sh.Dharmender**

A-82, Hari Enclave Part-I  
Near Hari Hospital, Sultanpuri  
Delhi-110086.

..... Petitioner

**Versus**

**Sh.Jagjit Sangwan**

Assistant Commissioner of Police  
Sub Division Najafgarh  
Najafgarh  
New Delhi-110043

**Smt.Promila Devi**

H.No.138, Shiv Nagar Colony  
New Roshan Pura,  
Najafgarh, New Delhi-110043

..... Respondents

**ORDER**

1. Sh.Dharmender S/o Sh. Ram Kalap Prasad R/o A-82, Hari Enclave, Part-I, Sultanpuri, New Delhi a disabled person filed a representation stating that he had given his car Chevrolet Aveo DL 8 CV 0341 to his relative namely Sh.Sandeep for some time and when he went to take back his car the keys of the car were forcibly taken by one Ms.Promila Devi who is a neighbour of Sh.Sandeep. The petitioner complained to the police who instead of helping him favoured the lady and did not ask her to return the vehicle to the petitioner.
2. The Assistant Commissioner of Police Sub Division Najafgarh was directed to file a status report. The report filed by the Assistant Commissioner of Police states that the statement of the petitioner was recorded in which he levelled allegations against Ms.Promila Devi who retained his second hand vehicle Chevrolet Aveo DL 8 CV 0341 bought by him from

First Choice in cash for Rs.2,60,000/-. He (petitioner) is still making payment through EMIs. On 1.9.14 the petitioner visited Sh.Sandeep Kumar at Shiv Nagar near BDO Office Najafgarh to get back his car and found that his car was parked in the street and when he tried to start the car one lady came from behind and did not allow the petitioner to take his car. The statement of the petitioner that the police authorities helped the woman Ms.Promila Devi in taking over the possession of the vehicle is contrary to the statement made by him on 1.9.2014 the day of the incident when he had stated that his brother-in-law had paid the amount and mortgaged it to Ms.Promila Devi. Ms.Promila Devi stated that Sh.Sandeep S/o Sh.Bhanwar Lal had taken Rupees four lakhs from her in lieu of a job for her son Sh.Bhumit in Delhi Fire Service in the presence of the petitioner. After many days when Sh.Bhumit did not get the job she asked for the money from Sh.Sandeep who handed over the car with registration no. DL 8CV 0341 to her with papers. She further stated that she would hand over the car and documents in presence of Sh.Sandeep S/o Sh.Bhanwar Lal. A statement of Sh.Prempal S/o Sh.Chob Singh R/o C-125, Shiv Nagar, New Roshanpura, New Delhi was recorded who stated that a quarrel took place between Sh.Sandeep and Ms.Promila Devi over money dispute and Sh.Sandeep mortgaged his car in lieu of credit amount of Ms.Promila Devi. Sh.Ishwar Singh S/o Sh.Dilip Singh R/o C-138, Shiv Nagar New Roshanpura Najafgarh another neighbour also confirmed the statement made by Sh.Prempal. The mother of Sh.Sandeep Smt.Anaro W/o Sh.Bhanwar Singh R/o House of Rajkumar, Plot No.107, Shiv Nagar Roshanpura Extension Najafgarh on 1.9.14 lodged a missing report of Sh.Sandeep S/o Sh.Bhanwar Singh and her daughter-in-law Ms.Anju and alleged that her son was missing since 13.8.14 and her daughter-in-law was missing since the night of 31.8.14 after receiving a phone call from her husband Sh.Sandeep. On 1.9.14 a quarrel took place between Ms.Promila Devi and Sh.Dharmender. SHO Police Station Chhawla also visited the spot. The call was filed vide DD No.87 B dated 1.9.14. Sh.Dharmender the complainant reported that his brother-in-law Sh.Sandeep bought the car and Sh.Sandeep himself mortgaged his car in lieu of pending payment of Ms.Promila Devi. The complainant Sh.Dharmender had no clue about his brother-in-law and his sister. From the facts and enquiry it revealed that the complainant was misleading the police by telling different facts. Sh.Sandeep has duped Ms.Promila Devi and now fearing action the family is creating false alibi in their favour. Sh.Sandeep was missing since 13.8.14 and the complainant came to enquire for the car on 1.9.14 the day his sister Ms.Anju W/o Sh.Sandeep had gone missing. All this creates

doubts about the veracity of the statement made by the complainant and therefore no action was made out as per the circumstances of the case.

3. The report of the Assistant Commissioner of Police was examined. A hearing was held. During the course of the hearing the SHO Chhawla reiterated the contents of the report already filed by the Assistant Commissioner of Police Najafgarh. The Respondent Ms.Promila Devi also attended the hearing. It is not clear as to how Ms.Promila Devi was permitted to take possession of vehicle no. DL 8 CV 0341 owned by the petitioner. It is common sense that a property (whether movable or immovable) owned by a person cannot be mortgaged by another person. This proposition was put to the Respondent Ms.Promila Devi (who had reportedly forcibly taken over the possession of the car) and she agreed that it was not legal to mortgage a vehicle owned by somebody else notwithstanding anything else. The assumption of the concerned police authorities (even as there is no evidence) that Sh.Sandeep has duped Ms.Promila Devi and that the family is creating false alibi in their favour is devoid of merit as any assumption cannot be a substitute for the evidence which is vital for any final conclusion. In so far as the assertion of the police authorities that the petitioner gave different statements the petitioner submitted that he was forced to give a different statement by the police. In any case the police authorities need to thoroughly investigate the matter and take further necessary action as per the provisions of law. However it may be iniquitous on the part of the police authorities to draw conclusions on hearsays i.e without concrete and admissible evidence.
4. In the facts and circumstances of the case the Respondent Ms.Promila Devi is directed to hand over the possession of the car to the petitioner as she does not have any legal right to keep the car (Chevrolet Aveo) bearing registration no. DL 8CV 0341 as it rightfully belongs to Sh.Dharmender the petitioner.
5. Ordered accordingly.

Given under my hand and the seal of the Court this 25<sup>th</sup> day of February, 2015.



*K.S. Mehra*  
25/2/15

(K.S. Mehra)  
Commissioner  
Court of Commissioner (Disabilities)  
National Capital Territory of Delhi  
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