

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.K.MOHANAN
&
THE HONOURABLE MR. JUSTICE P.D.RAJAN

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WA.No. 598 of 2009 ()

AGAINST THE JUDGMENT IN WP(C) 28741/2008 of
HIGH COURT OF KERALA DATED 06-10-2008

APPELLANT(S)/PETITIONER:

DAVIS, S/O. ALOOR THOMAS,
PUTHURUTHY DESOM & VILLAGE, THALAPPALLY TALUK
THRISSUR DISTRICT.

BY ADV. SRI.M.G.KARTHIKEYAN

RESPONDENT(S)/RESPONDENTS:

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1. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD
THRISSUR.
 2. THE VILLAGE OFFICER,
PUTHURUTHY, THRISSUR DISTRICT.
 3. THE DEPUTY TAHSILDAR (R.R.) ,
TALUK OFFICE, THALAPPALLY, WADAKKANCHERRY
THRISSUR DISTRICT.
 4. THE DISTRICT COLLECTOR,
THRISSUR.
 5. N.R.SANKARAN,
KARTHIKA, P.O.PERINGANDOOR, THRISSUR DISTRICT.

ADDL.6. T.A.HARIDAS, S/O.APPU,
AGED 47 YEARS,
THALEKKARA HOUSE, KATTUKAMBAL P O,
THRISSUR DISTRICT.

(ADDL.R6 IS IMPEADED AS PER ORDER DTD.23.1.15 IN I.A.NO.1263/14)

R1 BY ADV. SMT.I.SHEELADEVI, SC,KMTWF BOARD
R5 BY ADV. SRI.T.C.SURESH MENON
R5 BY ADV. SRI.C.A.ANOOP
R1 TO R4 BY GOVERNMENT PLEADER SRI.JOBY JOSEPH
R1 BY ADV. SRI.K.S.MANU (PUNUKKONNOOR)
ADDL. BY ADV. SRI.G.PRABHAKARAN
ADDL.R6 BY ADV. SRI.P.SANTHOSH KUMAR (TR)
BY SMT.I.SHEELA DEVI

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 26-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ami/

V.K.MOHANAN & P.D.RAJAN, JJ.

W.A.No.598 of 2009

Dated this the 26th day of February, 2015.

J U D G M E N T

Mohanan, J.

The above writ appeal is directed against the judgment dated 6.10.2008 of the learned Single Judge in WP(C) No.28741/08 before whom the challenge was against Exts.P1 and P2, which are notices issued under the revenue recovery proceedings. The learned Single Judge dismissed the above writ petition without prejudice to the right of the petitioner to take appropriate steps in relation to the order assessing the appellant/petitioner as liable to pay the contribution under the Kerala Motor Transport Workers Welfare Fund Act. Dissatisfied with the above order, the writ petitioner preferred the above writ appeal.

2. Heard Sri.M.G.Karthikeyan, the learned counsel appearing for the appellant and Sri.P.Santhosh Kumar, the learned counsel appearing for the additional 6th respondent and also the learned Standing counsel for the Kerala Motor

Transport Workers Welfare Board, Thrissur.

3. In the main dispute, the question to be considered is who is liable to be assessed under the Kerala Motor Transport Workers Welfare Fund Act. According to the appellant, he is only a cleaner of the vehicle in question bearing registration No.KL-08-V 6293 ; Whereas, the claim of the additional 6th respondent is that he is only the new owner, who purchased the vehicle from the 5th respondent on 1.4.2006, and according to him, the assessment period, under which the revenue became due, was before he became the owner. So, the main question to be decided is, who is actually liable to be assessed for the period 2000-2003 and 2003-2005. During the course of argument, we feel that it is better to relegate the parties to approach the 1st respondent and the 1st respondent can be directed to take a fresh decision on the above aspect, after affording sufficient opportunities to the contesting parties. Accordingly, for the above purpose alone, Exts.P1 and P2 can be set aside.

In the result, notwithstanding the earlier orders passed by this Court, this writ appeal is disposed of directing the 1st

respondent - the District Executive Officer of the Kerala Motor Transport Workers Welfare Fund Board, Thrissur - to pass a fresh order for the disputed period clarifying as to who is actually liable to pay the contribution under the Kerala Motor Transport Workers Welfare Fund Act. To enable the 1st respondent to pass appropriate orders, Exts.P1 and P2 stand set aside. It is made clear that the 1st respondent is free to pass fresh orders accordingly, notwithstanding the orders passed by this Court on earlier occasions and setting aside Exts.P1 and P2. The 1st respondent is further directed to pass fresh order within a period of 3 months from today after affording sufficient opportunities to the contesting parties.

Writ appeal is disposed of accordingly.

Sd/-

V.K.MOHANAN, Judge

Sd/-

P.D.RAJAN, Judge

ami/

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P.A.to Judge