

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WA.No. 150 of 2012 ()

**AGAINST THE ORDER/JUDGMENT IN WP(C) 15515/2011 of HIGH COURT OF KERALA
DATED 11-01-0211**

APPELLANT/IST RESPONDENT:

**COCHIN PORT TRUST
REPRESENTED BY ITS SECRETARY, WILLINGTON ISLAND
KOCHI-682003.**

**BY ADVS.SRI.V.ABRAHAM MARKOS
SRI.MATHEWS K.UTHUPPACHAN
SRI.BINU MATHEW
SRI.TERRY V.JAMES**

RESPONDENT(S)/PETITIONER & 2ND RESPONDENT IN WPC:

- 1. MANAF
AGED 28 YEARS, S/O.MUHAMMED ISMAYIL
HOUSE NO.12/1155 F, PANAYAPALLY, KOCHI-682002.**
 - 2. COMMANDANT,
CENTRAL INDUSTRIAL SECURITY FORCE (CISF)
COCHIN PORT TRUST, WILLINGTON ISLAND, KOCHI-682003.**
- R1 BY ADV. SRI.R.SUDHISH
R1 BY ADV. SMT.M.MANJU
R1 BY ADV. SRI.K.R.RANJITH
R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 23-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No.150 of 2012
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Dated this the 23rd day of February, 2015

J U D G M E N T

Antony Dominic, J.

This writ appeal is filed by the 1st respondent in WP(C) No.15515/11. The 1st respondent herein is the registered owner of a goods vehicle bearing Regn.No.KL-43A 4993 and the registration was transferred into his name w.e.f. 23/6/2010. The said vehicle was seized by the 2nd respondent at about 2.00 a.m on 15/5/11 for dumping waste in the premises of the Cochin Port. Thereupon he was levied a fine of ₹10,000/- and the receipt was acknowledged by Ext.P3. However, when request was made for releasing the vehicle on payment of the fine as above, that request was turned down and he was asked to remit a sum of ₹50,000/- on the ground that the vehicle in question was detained on an earlier occasion for the very same offence. It was in these circumstances the writ petition was filed.

2. The appellant sought to justify the fine of ₹50,000/- relying on Ext.R1(a), the minutes of the meeting. However, the learned Judge found that the earlier detention of the vehicle was on

6/2/2010 and that since the vehicle was transferred into the name of the 1st respondent only on 23/6/2010, he cannot be proceeded as a second offender to levy the higher fine of ₹50,000/-. On this basis, the learned single Judge held that since the 1st respondent has already remitted ₹10,000/- evidenced by Ext.P3, the vehicle should be released to him. It is this judgment which is under challenge before us.

3. We heard the learned counsel for the appellant, the learned counsel appearing for the 1st respondent and also the learned Assistant Solicitor General appearing for the 2nd respondent.

4. It is true that in Ext.R1(a), the minutes relied on by the appellant, for the second offence of dumping waste, an enhanced fine of ₹50,000/- is authorised to be levied. However, in so far as this case is concerned, admittedly, the vehicle in question was transferred into the name of the 1st respondent only w.e.f. 23/6/2010 and admittedly, the first offence that is relied on by the appellant took place on 6/2/2010. This, therefore, means that the offence, if any, that was detected on 6/2/2010 cannot be related to the 1st respondent to make him a second offender when he was

found to have dumped waste on 15/5/11. Therefore, the learned single Judge was fully justified in ordering that the vehicle should be released to the 1st respondent, he having remitted ₹10,000/-, which was acknowledged by the appellant as per Ext.P3 receipt issued by it. We do not find any reason to interfere with the judgment under appeal.

Appeal is dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge