

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 450 of 2010 (E)

PETITIONER :

M.K.MANOCHARAN, MUKAVAN KANDIYIL,
PUTHIYANGADI.P.O., KOZHIKODE DISTRICT.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:

1. VIBINA, W/O.LATE SHYAM PRASAD,
PADINJARE VATTAKANDY HOUSE, PUTHIYANGADI P.O.
KOZHIKODE DISTRICT.
2. USHA, W/O.SUKUMARAN,
PADINJARE VATTAKANDY HOUSE, PUTHIYANGADI P.O.
KOZHIKODE DISTRICT.
3. SHAIJU, MUKAVANKANDY HOUSE,
PUTHIYAPPA, PUTHIYANGADI P.O., KOZHIKODE DISTRICT.
4. MOTOR ACCIDENT CLAIMS TRIBUNAL,
KOZHIKODE.

R1 & 2 BY ADV. SRI.P.S.SREEDHARAN PILLAI
R1 & 2 BY ADV. SMT.C.G.PREETHA
R4 BY GOVERNMENT PLEADER SRI R RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE

EXT.P2: COPY OF OP(mv) 795 OF 2009 DT 11.6.2009

EXT.P3: COPY OF THE I.A. 23145/2009 IN OP(MV) 795/2009 FILED BY THE RESPONDENTS 1 AND 2

EXT.P4: COPY OF THE ATTACHMENT ORDER IN I.A 2314/2009 IN OP(MV) BI,795/2009 DT 17.7.2009

EXT.P5: COPY OF THE I.A 3195/2009 IN OP(MV)795/2009 FILED BY THE PETITIONER

EXT.P6: COPY OF THE RECEIPT SHOWING PAYMENT OF AMOUNT BY THE 3RD RESPONDENT DT 9.5.2009

EXT.P7: COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE INDUS IND BANK DT 13.5.2009

EXT.P8: COPY OF THE RECEIPT ISSUED ON SUBMISSION OF APPLICATION FOR CHANGE OF REGISTRATION INTO THE PETITIONER'S NAME DT 20.06.2009

RESPONDENTS EXHIBITS:

EXHIBIT R1(a): TRUE COPY OF THE OBJECTION DT 23.10.2009 FILED BY THE PETITIONER BEFORE THE MACT KOZHIKODE IN I.A NO.3195/2009 IN OP(MV) NO.795/2009

EXHIBIT R1(b): TRUE COPY OF THE ORDER DATED 23.10.2009 IN I.A. NO. 4711/2009 IN OP (MV) NO.795/2009 THE MACT KOZHIKODE

TRUE COPY

P.A TO JUDGE

jma

K. VINOD CHANDRAN, J

W.P(C) No450 of 2010

Dated this the 6th day of April, 2015

J U D G M E N T

The petitioner contends that the petitioner is the transferee of the vehicle, and hence the attachment at Ext.P4 cannot run on the vehicle. The brief facts to be noticed is that KL 11 AA 847 is a MGW Goods Carriage Truck which belonged to the 3rd respondent who, with a motor cycle being RegisterNo.KL 11 U 8903 driven by him, fatally injured another, whose legal representatives have filed the claim. When the accident occurred, the truck also belonged to 3rd respondent. The wife and mother of the deceased in the accident filed an application before the licensing authority on 08.05.2009, seeking interdiction of any transfer of the vehicles. Simultaneous to that, a claim petition was filed as O.P(MV) No.795/2009 before the Principal Motor Accidents Claims Tribunal, Kozhikode on 11.06.2009. Notice was taken out and the 3rd respondent who was impleaded in the I.A as additional respondent, also appeared before Court and an interim order was passed attaching two

vehicles; one the motor cycle having registration No.KL11 U 8903 involved in the accident, and the truck having registration No. KL 11 AA 847.

2. The petitioner's contention is that the application for sale was on 20.06.2009 prior to the attachment order. The respondents would contend that they had already filed an application before the RTO, seeking interdiction of any transfer of the vehicle and also moved an application before the Tribunal for attachment. It is specifically contended that only on the notice of the injunction application having been served on the 3rd respondent, the transfer was effected. It is also alleged that the petitioner is a close relative of the 3rd respondent. All these are contentions which could be raised before the Tribunal by the petitioner. Definitely evidence would have to be led and the Tribunal would have go into whether the transfer was a bonafide one or intended to defeat the claims of the claimants.

3. At the time of admission of the above writ petition, there was an order directing seizure of the vehicle to be not effected. However, it was specifically directed that the petitioner shall not transfer

or otherwise dispose of the vehicle. In such circumstance, Ext.P4 attachment order as of now would have to continue. The petitioner would have his remedies before the Tribunal and all the contentions of either parties are left open.

Writ petition is dismissed leaving liberty to the parties to agitate their respective cause before the Tribunal. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge