

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

WA.No. 1146 of 2015 () IN WP(C).12976/2015

AGAINST THE JUDGMENT IN WP(C) 12976/2015 DATED 28-04-2015

APPELLANT(S)/THIRD PARTY :-

MOHAMMED RAFI, S/O.SULAIMAN,
KOTTAKUZHICKAL HOUSE, KHADEEJA MANZIL, KIZHAKKUMPURAM
MUNDUR, PALAKKAD.

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENT(S)/PETITIONER AND RESPONDENT IN WP(C) :-

1. REGIONAL TRANSPORT AUTHORITY, PALAKKAD

2. VALSALA KRISHNADAS, AGED 67 YEARS,
W/O.KRISHNADAS, VEDANILAYAM
THIRUVILWAMALA, THRISSUR - 680 588.

R2 BY ADV. SRI.DENIZEN KOMATH

R1 BY SR.GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08-06-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

APPENDIX

APPELLANT'S ANNEXURES :-

ANNEXURE-A1 :- TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE APPELLANT AND THE 2ND RESPONDENT DATED 5.5.2014.

ANNEXURE-A1(a) :- TRUE COPY OF ENGLISH TRANSLATION OF ANNEXURE-A1.

ANNEXURE-A2 :- TRUE COPY OF THE JOINT APPLICATION SUBMITTED BY THE APPELLANT AND THE 2ND RESPONDENT DATED 10.7.2014.

ANNEXURE-A3 :- TRUE COPY OF THE TEMPORARY PERMIT ISSUED TO THE APPELLANT VALID UPTO 20.6.2015.

ANNEXURE-A4 :- TRUE COPY OF THE MEMO ISSUED BY THE 1ST RESPONDENT DATED 27.5.2015.

RESPONDENT'S EXHIBITS :-

ANNEXURE-R2(a) :- TRUE PHOTOCOPY OF THE REGISTRATION CERTIFICATE OF STAGE CARRIAGE BUS BEARING REGISTRATION NUMBER KL-09-Z-8399.

ANNEXURE-R2(b) :- TRUE PHOTOCOPY OF THE STAGE CARRIAGE PERMIT OF THE BUS BEARING REGISTRATION NUMBER KL-09-Z-8399.

ANNEXURE-R2(c) :- TRUE PHOTOCOPY OF THE INSURANCE CERTIFICATE OF STAGE CARRIAGE BUS BEARING REGISTRATION NUMBER KL-09-Z-8399.

ANNEXURE-R2(d) :- TRUE PHOTOCOPY OF THE COMMON ORDER OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT, VADAKKANCHERRY IN CMP No.1588/2015 AND 1620/2015 DATED 4.5.2015.

ANNEXURE-R2(e) :- TRUE PHOTOCOPY OF THE RELEVANT PHOTOS SHOWING DAMAGE CAUSED TO THE BUS OF THIS 2ND RESPONDENT BY THE APPELLANT AND HIS GOON GANG.

ANNEXURE-R2(f) :- TRUE PHOTOCOPY OF THE FIR IN CRIME NUMBER 342/2015 OF MANKARA POLICE STATION.

ANNEXURE-R2(f)(i) :- TRUE ENGLISH TRANSLATION OF ANNEXURE R2(f).

ANNEXURE-R2(g) :- TRUE PHOTOCOPY OF THE TAX RECEIPT AND WELFARE FUND PAYMENT RECEIPT OF THIS 2ND RESPONDENT'S BUS BEARING REGISTRATION NUMBER kl-09 Z-8399.

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.1146 of 2015

Dated this the 8th day of June 2015

J U D G M E N T

Shaffique, J.

The appellant is a third party in the writ petition, who had filed the appeal after seeking leave of court. He challenges the judgment dated 28.4.2015 in W.P.(C) No.12976/2015.

2. The writ petition was filed by the 2nd respondent herein seeking for a direction to the Regional Transport Authority, Palakkad to consider the application, Ext.P1 for temporary permit and to dispose of the same in accordance with law. It is stated in the writ petition that she is the owner of stage carriage buses bearing registration Nos.KL-09 Z 8399, KL-09 AH 4536 and KL-09 AH 349. It is alleged that her vehicle bearing registration No.KL-09 Z 8399 was cheated away by a third party and the bus was seized by the police and proceedings are pending before the Magistrate's Court for its release. The petitioner applied for temporary permit offering another vehicle, which application was pending consideration and at that time, the writ petition was filed. The learned Single Judge, by the impugned judgment, directed the competent authority to consider the application for temporary

permit within a period of two weeks from the date of judgment and grant the same, if there is no legal impediment.

3. The complaint of the appellant is that even without hearing him, the first respondent has allowed the application of the writ petitioner and asked him to stop the operation. It is contended that Annexure-A3 is a temporary permit issued in favour of the appellant for a period from 21.2.2015 to 20.6.2015 in respect of the vacancy that had arisen on account of stoppage of operation of the route bus bearing registration No.KL-09 Z 8399, which is mentioned in Annexure-A3 temporary permit. There was a condition in the said permit that the same was issued for a period of four months or till the route bus resumes service whichever is earlier. Apparently, the route bus did not resume service and in the said vacancy, temporary permit application was filed, which was obtained by the appellant. In fact, Ext.P1 application of the writ petitioner was also with respect to the very same vacancy. Necessarily, the appellant ought to have been heard by the Regional Transport Authority before passing Annexure-A4 order.

4. Heard the learned counsel appearing for the 2nd respondent and the learned Government Pleader appearing on behalf of the first respondent.

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5. Having regard to the fact that Annexure-A4 order dated 27.5.2015 has been passed without hearing the appellant, we are of the view that it is in violation of the principles of natural justice. Under such circumstances, Annexure-A4 order is liable to be quashed.

6. Accordingly, we quash Annexure-A4 order dated 27.5.2015 and direct the first respondent to reconsider the matter afresh, after hearing the appellant and take a decision as expeditiously as possible. It is made clear that the application of the petitioner as directed by the learned Single Judge has to be considered with notice to the appellant. The impugned judgment, to that extend, is modified.

The writ appeal is disposed of as above.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE