IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 3051 of 2009 (L)

PETITIONER(S):

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1. ANOOP K.K., S/O.NARAYANAN
   KOYODAN KIZHAKKEDATH HOUSE, THIRUVATTOOR P.O.
   TALIPARAMBA.

2. RATNAVATHI M.V,
   E.N.HOUSE
   ANCHAMPEEDIKA P.O., KOTTUMMAL VIA, KANNUR.

BY ADVS.SRI.SAJEEV KUMAR K.GOPAL
SMT.AMBIKA RADHAKRISHNAN

RESPONDENT(S):

KERALA MOTOR TRANSPORT WORKERS WELFARE
REP. BY ITS DISTRICT EXECUTIVE OFFICER , KANNUR.

BY SRI.PAULSON C.VARGHESE,SC,KMTWF BOARD
SRI.NAVEEN. T, SC, KMTWWFB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 3051 of 2009

APPENDIX

EXHIBITS

P1- TRUE COPY OF THE REGISTRATION CERTIFICATE PARTICULARS IN RESPECT OF STAGE CARRIAGE KL-13/N/3069

P2- TRUE COPY OF THE RELEVANT PAGES OF THE REGISTRATION CERTIFICATE OF STAGE CARRIAGE BEARING REGISTRATION NO. KL-13/M-8283

//True Copy//

P.A. To Judge

K.VINOD CHANDRAN, J

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W.P.(C).No. 3051 of 2009

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Dated 5th January, 2015

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JUDGMENT

The petitioners are aggrieved with the proceedings taken under the Motor Transport Workers Welfare Fund Act, 1985 (Kerala) [for short 'the Act'] for realization of amounts due under the Act with respect to two vehicles owned by the petitioners.

2. The admitted facts are that, the 1st petitioner purchased a vehicle bearing registration No.KL-13/N-3069 on 12.09.2007 and the 2nd petitioner purchased a stage carriage bearing No.KL-13/M-8283 on 25.01.2007. The petitioners would contend that, their liability to Welfare Fund dues under the Act would commence only from that date and they ought to be issued with a clearance certificate on satisfaction of their said dues; to facilitate payment of road tax.

3. The issue is no longer *res integra* since this Court has already held against the petitioners' contentions in **Ummar v. Joint Regional Transport Officer (2014 (4) KLT 358)**. This Court noticed the introduction of Sections 8A, 10(1) & 10(2) in the 1985 Act on 07.06.2005. The transfer of the vehicle in the name of the petitioners herein having been effected after the said date, definitely the charge on the vehicle created by Section 10(2) would require satisfaction of the prior dues also, for issuance of a clearance certificate under Section 8A.

4. The learned counsel for the petitioners would however, urge that, the liability cast on the petitioners would, in any event, be only subsequent to 2005 since any prior dues will be that of the earlier registered owner. That however, would be a wrong understanding of the afore cited decision. In **Ummar** (supra) the rigour of the amendment brought into the Act of 1985, was held to have absolved any prior transferee from the earlier

liability. Hence, if the transfer had been effected prior to the amendment, then necessarily no charge could be found on the vehicle nor could a clearance certificate be insisted. However, when the amendment was brought into force as on that date, there would be a charge created on the vehicle for all dues under the Act and satisfaction of the same would be a requirement for issuance of clearance certificate under Section 8A.

In the above circumstances, following the decision of this Court, the writ petition would stand dismissed.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

//True Copy//

P.A. To Judge