

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 360 of 2015 (T)

PETITIONER(S):

- 1. P.N.SHAJI, AGED 48 YEARS,
PUTHUVUKUTIRAL, KANGAYA VILLAGE,
KANJIRAPARA.P.O., KOTTAYAM (DT.), PIN**
- 2. C.A.SALAM, AGED 55,
S/O.ABOOBAKAR RAVUTHAR,
CHEMBAKASSERY HOUSE, KANGAZHA VILLAGE,
KOTTAYAM (DT.), PIN**

BY ADV. SRI.P.M.SEBASTIAN

RESPONDENT(S):

- 1. INTELLIGENCE INSPECTOR,
DEPT. OF COMMERCIAL TAXES,
INTELLIGENCE SQUAD, MATTANCHERY II, PIN - 682 002.**
- 2. ASST. COMMISSIONER,
COMMERCIAL TAXES, MATTANCHERY, PIN - 682 002.**
- 3. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, TRIVANDRUM, PIN - 695 001.**

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 360 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE NOTICE AND ORDER DATED 26.12.2014 ISSUED
BY 1ST RESPONDENT UNDER SEC. 47(2) OF THE KERALA VALUE
ADDED TAX ACT.**

**EXHIBIT P2 : TRUE COPY OF THE SALE LETTER DATED 21.12.2014 ISSUED TO THE
2ND PETITIONER BY THE OWNER OF THE TIMBER.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.360 of 2015 (T)

.....
Dated this the 7th day of January, 2015

JUDGMENT

Petitioners are aggrieved by Ext.P1 notice issued to him, detaining a consignment of timber that was being transported from Changanacherry to Trissur at the instance of the second petitioner. In the writ petition, the petitioners also impugn the stand of the respondents that the petitioners must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.P.M.Sebastian.S., the learned counsel for the petitioners and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

(i) In as much as in Ext.P1 notice, it is indicated that the transportation of the goods was not under cover of valid documents as prescribed under the KVAT Act, the detention per se cannot be held to be unjustified.

(ii) Taking note, however, of the plea of financial hardships projected by the counsel for the petitioners, I direct the respondents to release the consignment on the petitioner paying an amount of ₹20,880/- (Rupees twenty thousand eight hundred and eighty only) and furnishing a bond without sureties for a like sum, to the satisfaction of the first respondent.

(iii) The respondents shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioners, within two months from the date of receipt of a copy of this judgment.

(iv) The petitioners shall produce a copy of this judgment and a copy of the writ petition before the respondents.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/01/