

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).NO. 704 OF 2015 (K)

PETITIONER(S) :

BABY,
S/O.RAJAN, VATTATHOTTATHIL KIZHAKKETHIL VEEDU
VAKKANAD, KOTTARAKKARA, KOLLAM.

BY ADVS.SRI.B.MOHANLAL
SRI.T.PRASAD
SRI.B.N.HASKAR

RESPONDENT(S) :

1. THE INTELLIGENCE INSPECTOR
SQUAD NO. IV, COMMERCIAL TAXES, KOLLAM AT PUNALUR
PUNALUR P.O., KOLLAM DISTRICT, PIN - 691 305.
2. THE STATION HOUSE OFFICER
PUNALUR POLICE STATION, PUNALUR P.O., KOLLAM
PIN - 691 305.

BY GOVERNMENT PLEADER SMT. ANITHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).NO. 704 OF 2015 (K)

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1: COPY OF THE RETAIL INVOICE DATED 29/03/2011 IN RESPECT OF
TATA HITACHI MODEL EX-110 HYDRAULIC EXCAVATOR OF THE
PETITIONER.

EXT.P2: COPY OF THE ORDER NO. E1/22782/12 DATED 09/12/2014 OF THE
SECRETARY, PUNALUR MUNICIPALITY, PUNALUR, KOLLAM.

EXT.P3: COPY OF THE QUOTATION OBTAINED BY THE PETITIONER FROM SAKTHI
ENGINEERING, KOTTARAKKARA.

EXT.P4: COPY OF THE OR NO.2778/2014-2015 DATED 24/12/2014 ISSUED BY
THE 1ST RESPONDENT UNDER SECTION 47(2) OF THE KERALA VALUE
ADDED TAX ACT 2003.

RESPONDENT(S) ' EXHIBITS : NIL

/ TRUE COPY /

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P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 704 of 2015 (K)

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Dated this the 12th day of January, 2015

JUDGMENT

The petitioner impugns Ext.P4 detention notice that was issued to him while a used excavator was being transported, at his instance, from Punalur to Kottarakkara for the purpose of effecting repairs thereon. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in Ext.P4 detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.B.Mohan Lal, the learned counsel for the petitioner 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) On a perusal of Ext.P4 detention notice, it is seen that the only reason for detention of the vehicle is that, there is no valid documents produced by the petitioner to support the transportation. It is not discernible, however, from Ext.P4 as to what the basis for detention of the goods in the first place was, as there is nothing to suggest that the petitioner was a

dealer engaged in transporting goods. The learned counsel for the petitioner would refer to Ext.P3 quotation, in connection with the repair work that had to be undertaken on the excavator, which would indicate that the excavator was being transported for the purpose of effecting repairs and not for any transaction that attracted the levy of sales tax. Under these circumstances, I direct the first respondent to release the excavator as well as the vehicle, on the petitioner executing a simple bond without sureties before the second respondent, for the security amount demanded in Ext.P4 notice.

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

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

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE