IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 1492 of 2015 (J)

PETITIONER(S):

JOY P.P., S/O.PAILY,
PALATTY HOUSE, KUVAKATTUKUNNU P.O.,
MELOOR, CHALAKUDY, THRISSUR.

BY ADV. SRI.B.MOHANLAL.

RESPONDENT(S):
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1. THE DISTRICT EXECUTIVE OFFICER,
   KERALA MOTOR TRANSPORT WORKERS
   WELFARE FUND BOARD, THRISSUR,
   THRISSUR P.O., PIN-680 001.

2. THE DISTRICT EXECUTIVE OFFICER,
   KERALA MOTOR TRANSPORT WORKERS
   WELFARE FUND BOARD, ERNAKULAM, KOCHI-682 012.

3. THE SUB REGIONAL TRANSPORT OFFICER,
   CHALAKUDY P.O., THRISSUR-680 307.

4. THE DEPUTY COMMISSIONER OF EXCISE,
   THRISSUR P.O., THRISSUR-680 001.

R1& R2 BY ADVS. SRI.P.RAMAKRISHNAN, SC,
SRI.K.S.MANU, SC.
R3 & R4 BY GOVT. PLEADER SRI.R. RANJITH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 1492 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	**COPY OF THE ORDER MO.R8A-7175/2014 DATED 21/11/2014 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.**
EXT.P2	**COPY OF THE R.C. PARTICULARS OF 2007 MODEL EICHER MOTORS 10.95 CABIN & HALF BODY MGV GOODS CARRIAGE BEARING REG. NO.KL-41-A-732 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER/.**
EXT.P3	**COPY OF THE COMMUNICATION NO.R8A-14588/14 DATED 04/01/2015 ISSUED BY THE 4TH RESPONDENT TO THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.S. TO JUDGE

rs.

K.VINOD CHANDRAN, J

W.P.(C) No.1492 of 2015

Dated this the 23rd day of January, 2015

JUDGMENT

Petitioner purchased a vehicle in an auction conducted by the Deputy Commissioner of Excise, the 4th respondent herein, which is evident from Ext.P1. The vehicle bearing registration No.KL-41-A-732 was allegedly sold in public auction with the assurance that the same is encumbrance free. However, on obtaining the possession of the vehicle and requesting for transfer of registration, the petitioner was told that there are dues under the Kerala Motor Transport Workers Welfare Fund Act (Welfare Fund Act).

2. Heard the learned Standing counsel appearing for the 1st and 2nd respondent.

3. The petitioner relies on the letter issued by the 4th respondent at Ext.P3 which indicates that the vehicle is encumbrance free. However, it is not for the Excise Authority to absolve the vehicle from the liability under the Welfare

Fund Act. The Act mandates a charge on the vehicle as also issuance of a clearance certificate before the taxes are accepted by the Motor Transport Department. In such circumstance, also considering the fact that the purchase of the vehicle is after the aforesaid amendment came into the Act; by virtue of the judgment in **Ummar v. Joint Regional Transport Officer** [2014(4) KLT 358], the petitioner necessarily would have to pay the pending dues for obtaining clearance certificate under the Welfare Fund Act. However the liability of such owners who were to be actually assessed under the Act would be an issue which the petitioner could agitate in appropriate proceedings.

4. The petitioner hence shall approach the respondents 1 and 2 within a week from today, upon which the respondents shall intimate in writing the amounts due under the Act with respect to the vehicle and the petitioner shall make payment of the same within a period of one month from the date of such intimation. The respondents 1 and 2 shall also furnish the details of the persons who were earlier registered under the Act to the petitioner, with respect to

the said vehicle. On payment of the dues, the petitioner shall be issued with clearance certificate under the Act. The petitioner's remedies against the persons who are said to be liable under the Act, for the period prior to the purchase of the petitioner, shall be left open.

Writ petition is disposed of. No costs.

K.VINOD CHANDRAN,
JUDGE

smv