IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

W.P.(C).No.4369 of 2013 (U)

PETITIONER(S):-

SUBIN JACOB, AGED 38 YEARS, S/O. JACOB,
KUZHIKKATTU HOUSE, THADIYAMBU P.O., IDUKKI.

BY ADVS.SRI.SABU S.KALLARAMOOLA
SRI.S.NIDHEESH.

RESPONDENT(S):-

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1. REGIONAL TRANSPORT OFFICER (TAXATION OFFICER),
   IDUKKI-685 584.

2. TAHSILDAR (REVENUE RECOVERY),
   THODUPUZHA, IDUKKI-685 584.

3. V.C.JOSEPH
   VADAKKEKUDIYIRUPPIL, PARATHODE, UZHAVOOR,
   KOTTAYAM-686 512.

4. ANTO, S/O. THOMAS,
   CHIRAYATH, ELTHURUTHU
   ARANATTUKARA VILLAGE, THRISSUR-680 618.

5. M.H.SIDDIQUE @ YATHRA SIDDIQUE, S/O. M.S.HASSAN KUNJU,
   MARADIKUNNEL, THODUPUZHA VILLAGE, THODUPUZHA P.O., PIN-685 584.

6. DEPUTY SUPERINTENDENT OF POLICE
   THODUPUZHA, IDUKKI-685 584.

R1, R2 & R6 BY SENIOR GOVERNMENT PLEADER SRI.BIJU MEENATTOR.
R3 BY ADVS. SRI.G.HARIHARAN
SRI.PRAVEEN.H.
R5 BY ADV. SMT.REKHA NAIR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

W.P.(C).NO.4369 OF 2013-U

APPENDIX

PETITIONER(S) EXHIBITS:-

EXT.P1 : COPY OF THE AGREEMENT DTD.1.5.2008.

EXT.P2 : COPY OF THE AGREEMENT ENTERED INTO BY THE PETITIONER AND OTHER SUBSEQUENT PURCHASERS.

EXT.P3 : COPY OF THE NOTICE UNDER THE REVENENUE RECOVERY ACT ON 11.1.2011.

EXT.P4 : COPY OF THE ATTACHMENT ORDER DTD.11.1.2011.

EXT.P5 : COPY OF THE CERTIFICATE DTD.6.2.2013 FOR TAX REMITTANCE.

EXT.P6 : COPY OF THE COMPLAINT DTD.6.2.2013 SUBMITTED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, IDUKKI.

EXT.P7 : COPY OF THE SEIZURE MAHAZAR, DTD.12.2.2013.

RESPONDENTS' EXHIBITS:-
-- NIL.

Vku/ [true copy]

K. Vinod Chandran, J

W.P.(C).No.4369 of 2013-U

Dated this the 07th day of April, 2015

JUDGMENT

The petitioner is aggrieved by the recovery proceedings initiated against the petitioner for the motor vehicle tax dues of a vehicle which was sold by him to the 3rd respondent under an agreement; which was further sold by the respective purchasers, on executing agreements.

2. The petitioner's contention is that he is the registered owner of the motor vehicle bearing registration No.KL-06-D-1041. It is averred in the writ petition that, the petitioner sold the vehicle to the 3rd respondent by sale agreement dated 01.12.2006, who in turn sold the same to the 4th respondent on 01.01.2007. The 4th respondent also, by Exhibit P1 agreement dated 01.05.2008, sold the vehicle to the 5th respondent. However, none of the above purchasers got transferred the Certificate of Registration in their favour. Thus, vehicle stands registered in the name of the petitioner even now. The petitioner also has no case that he had intimated the sale to the Registering Authority as provided under Section 50 of the Motor Vehicles Act, 1988 [for brevity “MV Act”].

3. It is alleged that, in connection with the tax dues in respect of the vehicle KL-06-D-1041, Exhibits P3 demand notice and Exhibit P5 order of attachment of property was issued. Thereafter Exhibit P5 certificate was issued, showing the amount of tax due with respect to the said vehicle. It is alleged that the petitioner has filed Exhibit P6 private complaint against respondents 3 to 5. Since the tax dues in respect of the said vehicle were not remitted, attachment proceedings were initiated against another stage carriage vehicle owned by the petitioner bearing registration No.KL-63-6322, by Exhibit P7. Resultantly, the petitioner is before this Court challenging Exhibits P3 to P5 and P7.

4. While admitting the writ petition, this Court directed release of vehicle bearing registration No.KL-63-6322 on condition of remittance of Rs.1,50,000/- and further ordered to continue the attachment.

5. Transfer of motor vehicles on the basis of agreements, is an accepted practice and definitely binds the parties to the agreement. However, the taxation and the welfare fund authorities are not bound by the same and they can proceed against the registered owner or the holder of the vehicle; at their option.

6. Transfer of possession and handing over of a vehicle by way of an agreement is an accepted practise, which is also legally permissible. Section 3 of the Kerala Motor Vehicles Taxation Act, 1976 provides for levy of tax; and sub-section (3) provides that the registered owner or any person having possession or control over a motor vehicle shall be deemed to use or keep such vehicle for use in the State. Hence, the official respondents are perfectly entitled to proceed against the registered owner as also the person who is in possession or control over the vehicle. If any dispute as to the possession or control of a vehicle is in existence between the parties, the same would have to be necessarily adjudicated before the appropriate civil forum. But that would not in any way affect the right of the Department to proceed against either of the aforesaid persons for satisfaction of tax liability. In such circumstance, there cannot be any interdiction of the recovery proceedings initiated as per Exhibits P3 to P5. The liability on the registered owner continues despite agreements regarding sale of the vehicle by the respective parties. There can also be no infirmity in the attachment made of another vehicle of the petitioner, since the liability to the tax dues of the other vehicle would also be on the petitioner. The Department is entitled to

proceed against the assets of the petitioner for realisation of the tax dues mulcted on him. Hence, the writ petition would stand dismissed.

7. However, if the petitioner approaches the authorities concerned, with a prayer for instalments, within a period of one month from the date of receipt of a copy of this judgment, the petitioner shall be permitted to settle the amounts covered by Exhibits P3 to P5, with interest, in six equal monthly instalments. If the petitioner has complied with the interim order dated 14.02.2013 regarding remittance of the amount mentioned therein, credit shall be given to the said remittance. The attachment order of the vehicle KL-63-6322 shall also be continued, if instalment is granted on the petitioner approaching the authorities. On satisfying the tax arrears, the attachment shall be lifted. Needless to say, the petitioner would be entitled to proceed against the party respondent(s) for recovery of the arrears remitted by him, in appropriate proceedings.

Ordered accordingly.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]