

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).NO. 2813 OF 2015 (B)

PETITIONER(S) :

MR.V SANAND, AGED 37 YEARS,S/O.LATE SADASIVAN,
PARTNER, INDO ELECTRICALS, 14/29. KALLAI ROAD,
CALICUT 673002, RESIDING AT "SREEVAIKUNDAM"
FRANCIS ROAD, CALICUT 673 002

BY ADVS.SRI.M.A.SHAFIK
SMT.SHAMEENA SALAHUDHEEN
SRI.N.M.SIYAD

RESPONDENT(S) :

- 1.STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF COMMERCIAL TAXES,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM, 695001
2. THE INTELLIGENCE INSPECTOR, SQUAD NO.III,
DEPARTMENT OF COMMERCIAL TAXES
MINI CIVIL STATION
MANANTHAVADY, WAYANAD-670645

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 2813 OF 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE NO.III/14/15 DATED 23.1.2015 ISSUED BY THE 2ND RESPONDENT

EXT.P2: TRUE COPY OF THE FORM 29 AND 30 ISSUED BY THE REGISTERED OWNER OF THE VEHICLE

EXT.P3: TRUE COPY OF THE LETTER DATED 19.01.2015 FROM THE COMMISSION AGENT.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2813 of 2015

.....
Dated this the 28th day of January, 2015

JUDGMENT

The petitioner, is aggrieved by Ext.P1 notice issued to him, detaining a used Porshe Cayman car, that was being transported from Mysore to Calicut at the instance of the petitioner, at Muthanga check post. In the writ petition the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Sri.Shafik.M.Abdulkhadir, 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.P1, it is seen that the objection of the respondents is that the vehicle was being transported under cover of a Form 8F declaration which showed that the consignor of the goods was Sri.Samad, Mysore and the consignee was Sri.Samad,

Calicut. There was no address of the consignee shown in the declaration. It is also noted that there were no documents produced by the petitioner to establish the relationship between the original owner of the goods and the consignee shown in the declaration form. In that view of the matter, therefore, the detention of the vehicle by the respondents cannot be said to be unjustified. I take note of the fact, however, that the petitioner has produced documents in the writ petition which would indicate that he was the purchaser of the vehicle in question, from the vendor in Delhi, and he was proposing to get the ownership of the vehicle transferred in his name before the registering authorities under the Kerala Motor Vehicles Act. Ext.P3 certificate, issued by the registered owner of the vehicle in Chandigarh, would also indicate that the vehicle was sold to the petitioner who was residing in Calicut. Under the said circumstances, I direct the 2nd respondent to release the goods and the vehicle to the petitioner on the petitioner paying an amount of Rs.25,000/- towards the security deposit demanded in Ext.P1, and executing a simple bond without sureties for the balance amount demanded therein, before the 2nd respondent.

(ii) 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.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

