

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 4717 of 2015 (L)

PETITIONER :

**KRISHNAN THENNAVARAYAR, AGED 47 YEARS,
S/O MANIYAN THENNAVARAYAR, MANGATTU NILAM,
NALLOOR, FEROKE P.O., KOZHIKODE-673 631.**

BY ADV. SRI.NIRMAL. S

RESPONDENT :

**REGIONAL TRANSPORT OFFICER,
R.T.O OFFICE, CIVIL STATION, KOZHIKODE-673 001.**

BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE CHECK REPORT DATED 2.1.2013.
- EXHIBIT P2: TRUE COPY OF THE CHARGE MEMO DATED 13.3.2013.
- EXHIBIT P3: TRUE COPY OF THE DRIVING LICENSE OF THE PETITIONER.
- EXHIBIT P4: TRUE COPY OF THE BADGE ISSUED TO THE PETITIONER.
- EXHIBIT P5: TRUE COPY OF THE DRIVING LICENSE MASTER REGISTER.
- EXHIBIT P6: TRUE COPY OF THE R.C. ISSUED DATED 14.9.2012.
- EXHIBIT P7: TRUE COPY OF THE INSURANCE POLICY OF THE VEHICLE DATED 27.8.2012.
- EXHIBIT P8: TRUE COPY OF THE CONTRACT CARRIAGE PERMIT DATED 29.9.2012.
- EXHIBIT P9: TRUE COPY OF THE O.P.3/2014. DATED 20/01/2014.
- EXHIBIT P10: TRUE COPY OF THE LETTER ISSUED BY THE FINANCIER.
- EXHIBIT P11: TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT.
- EXHIBIT P12: TRUE COPY OF THE AWARD DATED 25.10.2014 IN O.P.3/2014
- EXHIBIT P13: TRUE COPY OF THE CLAIM MADE BY FINANCIERS BEFORE THE ARBITRATOR.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 4717 of 2015

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Dated, this the 19th day of February, 2015

JUDGMENT

The grievance of the petitioner is mainly with regard to Ext. P12 order passed by the Permanent Lok Adalath, whereby the claim for compensation of Rs. 2,00,000/- sought for by the petitioner in respect of the financial loss and mental agony suffered by him, because of the course of action pursued by the respondent for having issued Ext. P1 check report and Ext.P2 charge memo, has been turned down; but for awarding a paltry sum of Rs. 1,000/-.

2. The factual position narrated in the writ petition shows that the petitioner was the owner of the Autorikshaw bearing No. KL 11 AN 4361, who was temporarily residing at a place near Feroke, Calicut and was eking out his livelihood by plying the autorikshaw. While so, the vehicle was intercepted by the respondent, who issued Ext. P1 check report, with the insinuating circumstances in the following terms :

"As per the complaint from Join Council of Trade
Union , Feroke enquired and checked the vehicle

No. KL11 AN 4361 and found that the driver have no authorisation to drive 3W and no valid badge for transport vehicle. The vehicle have no parking No. Feroke Grama Panchayath. Check report prepared and submitted to office for n.a."

Subsequently, the petitioner was served with Ext. P2 charge memo dated 13.03.2013, referring to contents of Ext. P1 check report and calling him to submit explanation, if any, as to the factual position. The case of the petitioner is that, though the petitioner made an attempt to explain the position before the respondent, it was not entertained. The learned counsel for the petitioner submits that, because of the course pursued by the respondent, the petitioner was not in a position to ply the vehicle and the same was kept idle. In the meanwhile, the liability towards the financier got mounted up, because of the non-remittance of timely installments and ultimately, possession of the vehicle was taken over by the financier as evident from Ext. P13. It was in the said situation, that the petitioner approached the Lok Adalath by filing O.P. No. 3 of 2014 on 20.01.2014 vide Ext. P9; wherein a statement was filed by the respondent; a copy of which has been produced as Ext. P11.

After hearing both the sides, the proceedings were finalized by the Lok Adalath as per Ext. P12 Award dated 25.10.2014, which according to the petitioner has virtually upheld all his contentions, but for limiting the compensation to be paid as Rs.1000/-.

3. The learned counsel for the petitioner submits that, by virtue of the mandate of law, particularly Section 22C (2) of the Legal Services Authorities Act, jurisdiction of the Civil Court is barred and as such, the matter has to be looked into by this Court. Hence the prayers, as extracted below:

"(a) Issue a writ of certiorari calling for the records leading to Ext. P12 and to quash that part of the award whereby the petitioner was only granted a compensation of Rs.1,000/- as against a claim of Rs.2,00,000/-.

(b) To issue a writ of mandamus directing the respondent to pay the petitioner a sum of Rs. 2 lakhs with interest as compensation.

(c) Issue any other appropriate writ or order which this Honourable Court may deem just, fit and proper in the facts and circumstances of the case and sufficient for the Redressal of the grievances of the petitioner.

4. Heard the learned Government Pleader as well.

5. Going by the contents of the writ petition and the proceedings which formed the subject matter of Ext. P12 Award passed by the Lok Adalath, it is seen that the entire case of the petitioner has been built up, as if the petitioner was prevented from plying the autorikshaw by the respondent. According to the petitioner, he was having valid 'Driving licence' and 'Badge', issued by the authorities in Cuddalore (State of Tamilnadu); copies of which have been produced as Exts. P3 and P4. Ext. P5 is a copy of the relevant register maintained by the Statutory Authority. This being the position, there was no justifiable reason to have intercepted the operation of the vehicle and hence the petitioner is liable to be compensated to the extent prayed for.

6. On going through the contents of Award, it is seen that the permanent Lok Adalath has made a specific observation, particularly in paragraph 27, that the respondent had not seized the autorikshaw, nor stopped plying of the vehicle, and as such there was no difficulty for the petitioner to have earned his livelihood.

7. Coming to the contents of the present writ petition, no material is produced before this Court to substantiate the case that

the petitioner was prevented by the respondent from plying the vehicle. On the other hand, it is stated in Ext. P1 check report that no valid licence or badge was shown by the petitioner, when the vehicle was intercepted. This was followed by Ext. P2 charge memo, referring to Ext. P1 check report and the petitioner was given an opportunity of personal hearing, also calling for the objections, if any. The petitioner does not have a case that he has filed statement of objection in response to Ext. P1, but for the version that though he had approached the respondent directly to explain the position, when the respondent allegedly asked him to go out. If that be the position, nothing prevented the petitioner from submitting the statement of objections, through registered post along with copies of Exts. P3 and P4 documents. There is also no case for the petitioner that the permit issued to the petitioner came to be suspended or cancelled, nor is there any document to show that the petitioner was prevented from operating the autorikshaw. That apart, the finding of the permanent Lok Adalath in Ext. P12, that no document was ever produced in this regard, stands intact and the position as such continues herein as well, since no document in this regard has been produced even before this Court.

The alleged case of taking over of the vehicle, by the Financier, because of non-remittance of timely installments (in connection with the financial assistance availed by the petitioner) has no connection with the alleged cause of action with reference to Ext. P1 check report and Ext. P2 charge memo. This Court does not find any reason to interfere with the order of the Permanent Lok Adalath, limiting compensation only to an extent of Rs.1000/-. There is absolutely no merit or bonafides in the writ petition. It stands dismissed accordingly.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

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