

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

WP(C).No. 9420 of 2013 (B)

PETITIONER(S):

**M.J.GEORGE AGED 45 YEARS
S/O.JOSE, MUNDADAN HOUSE, CHIYARAM VILLAGE DESOM
THRISSUR 680 026.**

**BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SMT.PREETHY KARUNAKARAN**

RESPONDENT(S):

- 1. THE STATE OF KERALA
REP.BY THE SECRETARY TO THE GOVERNMENT
TRANSPORT DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695 001.**
- 2. THE DEPUTY TRANSPORT COMMISSIONER
CENTRAL ZONE-1, THRISSUR 680 001.**
- 3. THE EXCISE INSPECTOR IN CHARGE,
EXCISE RANGE OFFICE, MAMALA 680 001.**
- 4. THE JOINT REGIONAL TRANSPORT OFFICER,GURUVAYOOR 680 001.**

*** ADDL. R5 IMPEADED**

**R5. IBRAHIM AGED 28 YEARS, S/O KHADER
MUSLEEM VEETIL HOUSE,
KADAPPURAM VILLAGE DESOM, CHAVAKKAL TALUK,
THRISSUR DISTRICT**

*** ADDL. R5 IS IMPEADED AS PER ORDER DATED 05.01.2015 IN IA 6922/2013.**

R1-R4 BY ADV. RAFAEEK, GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 9420 of 2013 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: COPY OF THE AUCTION NOTICE DATED 29/8/2011

**EXHIBIT P2: COPY OF THE PROCEEDINGS OF THE DEPUTY COMMISSIONER AND
EXCISE , THRISSUR DATED 2/11/2011**

EXHIBIT P3: COPY OF RELEASING ORDER ISSUED DATED 3/11/2011

**EXHIBIT P4: COPY OF THE APPEAL OF THE OWNER OF THE VEHICLE DATED
31/5/2012**

EXHIBIT P5: COPY OF THE SALE AGREEMENT DATED 18/12/2012

**EXHIBIT P6: COPY OF THE ORDER OF THE SECOND RESPONDENT DATED
17/10/2012**

RESPONDENT(S)' EXHIBITS:

**ANNEXURE 1: COPY OF THE AUCTION NOTICE DATED 29.08.2011 AND AUCTION
CONDITIONS**

//TRUE COPY//

PA TO JUDGE

JV

ANIL K. NARENDRAN, J.

W.P.(C) No.9420 of 2013

Dated this the 05th day of October, 2015

JUDGMENT

The petitioner has approached this Court in this writ petition seeking a writ of certiorari to quash Ext.P6 order and seeking a writ of mandamus commanding respondents 2 and 4 to register the vehicle in question and permit transfer of ownership in his name.

2. Going by the averments in the writ petition, one Ibrahim, who was impleaded as additional 5th respondent by order dated 05.01.2015 in I.A.No.6922/2013, in respect of whom service of notice is not yet complete, participated in an auction conducted pursuant to Ext.P1 auction notice dated 29.08.2011 in respect of different vehicles involved in abkari offence. The vehicle in question namely Bolero Jeep with false registration No.K-4/P-2512, involved in Crime No.2/2010 of the Excise Range Office at Irinjalakkuda was also auctioned, which was confirmed in the name of the additional 5th respondent for an amount of Rs.2.90 lakhs, by Ext.P2 proceedings of the 2nd respondent. As

evident from Ext.P3, the additional 5th respondent took possession of the vehicle on 03.11.2011. He made an application before the 4th respondent for change of ownership of the vehicle, which was declined on the ground that the engine number and chassis number of the vehicle in question were seen locally carved and that, the registration number is a fake one. Against the said order of rejection, he filed Ext.P4 appeal dated 31.05.2012 before the 2nd respondent. In the meantime, the petitioner purchased the said vehicle from the additional 5th respondent vide Ext.P5 sale agreement dated 18.12.2012. Ext.P4 appeal filed by the additional 5th respondent was rejected by Ext.P6 order dated 17.10.2012 of the 2nd respondent reiterating the reasons stated by the original authority. It is aggrieved by the aforesaid order, the petitioner is before this Court in this writ petition seeking various reliefs.

3. A counter affidavit has been filed on behalf of the Deputy Commissioner of Excise, Thrissur in which a copy of auction notice dated 29.08.2011 alongwith terms and conditions has been produced as Annexure-1. As evident from Annexure-1, the auction was on a specific condition that vehicles having fake registration number, chassis number and engine number are to

be treated as scrap and no orders will be given for the registration of such vehicles.

4. The 2nd respondent has also filed a counter affidavit contending that since the vehicle in question is having fake registration and also fake chassis number and engine number, it cannot be registered in view of the provisions under Section 44 of the Motor Vehicles Act, 1988 read with Rule 57(2) and Rule 122 of the Central Motor Vehicles Rules, 1989.

5. Heard the learned counsel for the petitioner and also the learned Government Pleader appearing for the respondents.

6. The petitioner is not disputing the fact that auction of the vehicle in question was conducted in terms of Ext.P1/Annexure-1 tender notice. The petitioner is also not disputing the fact that the vehicle in question is having fake registration number, engine number and chassis number. The fact that the said vehicle is having a fake registration number is specifically mentioned in Ext.P1/Annexure-1 tender notice. When Clause 11 of tender condition, which forms part of Ext.P1/Annexure-1 tender notice, specifically provides that vehicles with false registration number, chassis number and engine number are to be treated as scrap and no orders will be

given for registration of such vehicles, the petitioner herein who is only a subsequent purchaser from the additional 5th respondent who participated in the auction has no legal right to insist registration of the said vehicle. Further, as stated in the counter affidavit filed by the 2nd respondent, registration of a vehicle with fake registration number, chassis number or engine number is not permissible in view of the mandate under Section 44 of the Motor Vehicles Act read with Rule 57(2) and 122 of the Central Motor Vehicles Rules.

In such circumstances, the petitioner is not entitled for the reliefs prayed for in this writ petition. The writ petition fails and the same is dismissed.

sd/-
ANIL K. NARENDRA,
JUDGE

JV