

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).NO. 8212 OF 2015 (B)

PETITIONER(S):

**DINESH TRIKANNAMAD M.,
PROPRIETOR, M/S. DEEP MINING EQUIPMENTS,
MINING CONTRACTORS, 106, HEMMADY REGENCY,
MALBHAT, MARGAO, GOA-403 601.**

**BY ADVS.SRI.C.A.SADASIVAN,
SRI.JOY P.JOSE,
SRI.SOJAN MATHEW,
SRI.K.N.KRISHNAN NAMBOOTHIRI,
SRI.C.V.SASI,
SRI.K.JAYAMOHANAN PILLAI,
SRI.JOSEPH KURIEN,
SMT.P.S.SETHULEKSHMY.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY (TAXES), KERALA
GOVT. SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. INTELLIGENCE INSPECTOR,
SQUAD NO.V, COMMERCIAL TAXES, KASARAGOD,
CAMP AT MANJESWAR, PIN-671 323.**
- 3. INTELLIGENCE OFFICER,
SQUAD NO.V, COMMERCIAL TAXES, KASARAGOD,
CAMP AT MANJESWAR, PIN-671 323.**

BY GOVT. PLEADER SMT.SHOBA ANNAMMA EAPEN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 : COPY OF THE RENT AGREEMENT DATED 03.11.2014 EXECUTED BETWEEN PETITIONER AND SIVASAKTHI EARTH MOVERS, KOHLAPUR.**
- P2 : COPY OF THE CERTIFICATE DATED 27.10.2014 ISSUED BY MG. DIRECTOR, KERALA CLAYS & CERAMICS PRODUCTS LIMITED.**
- P3 : COPY OF THE FORM 8 F DATED 28.10.2014 USED TO IMPORT THE MACHINE.**
- P4 : COPY OF THE COMPLETION LETTER DATED 06.03.2015 ISSUED BY MINES MANAGER, KERALA CLAYS & CERAMICS PRODUCTS LIMITED.**
- P5 : COPY OF THE OR NOTICE NO.834/14-15 07.03.2015 ISSUED BY 2ND RESPONDENT.**
- P6 : COPY OF THE REPLY DATED 12.03.2015 FILED BEFORE 3RD RESPONDENT IN PURSUANCE OF OR NOTICE DATED 07.03.2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.8212 of 2015

.....
Dated this the 19th day of March, 2015

JUDGMENT

The petitioner, is aggrieved by Exts.P5 notice issued to him, detaining a Tata Hitachi machine, that was being transported at the instance of the petitioner. 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. I have heard the learned counsel for the petitioner and also 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.P5 notice, it is seen that the objection of the respondents is essentially that the transportation of the machine was covered only by a letter which indicated that the machine was being returned to Goa after its use in Karindalam in Kasargod district. Counsel for the petitioner would submit that, immediately after the detention of the

vehicle, he had produced Exts.P1 to P3 documents to show that the hitachi machine had been brought into the State earlier after declaring at the check post, and it was the same machine that was being returned by the present transportation. The fact remains, however, that these documents were not available at the time of detention of the vehicle and to that extent the detention of the vehicle by the respondents cannot be said to be unjustified.

(ii) Under such circumstances and insofar as the petitioner is not a registered dealer in the State, I direct the 2nd respondent to release the goods and the vehicle to the petitioner, on the petitioner paying 25% of the security deposit amount demanded in Ext.P5 notice, and furnishing a simple bond without sureties for the balance amounts demanded therein, before the respondent.

(iii) The respondent 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.

(iv) 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/

