

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 8229 of 2015 (C)

PETITIONER :

SANDEEP V.V.,
VADAKKOOT HOUSE,
KURICHIKKARA P.O., THRISSUR.

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S) :

1. THE REGIONAL TRANSPORT AUTHORITY,
THRISSUR – 680 002.
2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY,
THRISSUR – 680 002.
3. JOSHI,
S/O. VELAYUDHAN,
VADAKKUMNALATH HOUSE,
P.O. PARAPPUKKARA, THRISSUR-680 310.

R1 & R2 BY SR. GOVT. PLEADER SRI. BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

...2/-

WP(C).No. 8229 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE PERMIT OF THE VEHICLE KL-5 M 3516.

EXHIBIT P2: TRUE COPY OF THE TRANSFER APPLICATION DATED 8.7.2014.

EXHIBIT P3: TRUE COPY OF THE PROCEEDINGS DATED 7.8.2014.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J.
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W.P.(C) No.8229 of 2015 - C
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Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner is aggrieved with the transfer of a permit in the route Ayyanthole - Cherakkakode in respect of stage carriage having registration No. KL-5/M-3516 not being effected. The permit stands in the name of one Sidharthan, which is produced as Ext.P1 and the joint application for transfer is produced at Ext.P2.

2. The learned Government Pleader on instructions submit that, the 3rd respondent had raised an objection on the ground that, he has a charge over the vehicle, since the original permit holder had availed finance from the 3rd respondent hypothecating the vehicle. It is on that ground that, the transfer of registration of the vehicle

as also the transfer of permit application has been adjourned by the Regional Transport Authority, Thrissur (RTA), pursuant to the enquiry into the veracity of the objection. However, it is to be noticed that, any charge created on the vehicle has to be endorsed as per Section 51 of the Motor Vehicles Act, 1988 (for brevity, 'the M.V. Act').

3. In the present case, there is no such endorsement in the registration certificate. A third party cannot merely come forward and raise an objection on the ground that, a finance has been availed without having made an endorsement under Section 51 of the M.V. Act. It is also submitted by the learned Government Pleader that, in O.S No.4529 of 2014 filed before the Munsiff's Court, Thrissur, there is a direction to the registering authority to produce the documents with respect to the vehicle before the said Court. However, there is no injunction granted as to the transfer of the vehicle or the transfer of permit as of

now.

4. In such circumstance, the registering authority has to comply with the provisions under the M.V Act and Rules and effect the transfer and there could be no interdiction on account of a third party objection as declared by this Court in **Bindhu K.S v. Secretary, Regional Transport Authority and others [2009(3) KLT 525]**. Any transfer made, definitely would be subject to the result of the civil litigation. In view of the binding precedent of the aforecited decision, there shall be a direction to the 1st respondent to consider the application in accordance with law and in accordance with the declaration made in the aforesaid judgment after hearing the 3rd respondent.

5. Since, it is submitted by the learned Government Pleader that, the application filed has also been transferred to the Munsiff's Court, Thrissur, the petitioner

shall file a fresh joint application before the 1st respondent and the same shall be considered after notice to the 3rd respondent within a period of two months from the date on which the 3rd respondent acknowledges the notice sent by the RTA.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge