

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 15897 of 2011 (J)

PETITIONER:

GOPIDAS, AGED 46 YEARS, S/O. SUKUMARAN,
KANDATHICHIRA HOUSE, MATTATHIPARAMBU P.O., CHERTHALA,
ALAPPUZHA DISTRICT.

BY ADV. SRI.K.RAMANATHAN

RESPONDENTS:

1. THE DEPUTY COMMISSIONER OF EXCISE,
THRISSUR EXCISE RANGE, THRISSUR DISTRICT-680 601.
2. THE ADDITIONAL EXCISE COMMISSIONER OF
EXCISE (ENFORCEMENT), EXCISE COMPLEX,
THIRUVANANTHAPURAM-695 001.
3. THE EXCISE COMMISSIONER,
EXCISE COMPLEX, THIRUVANANTHAPURAM-695 001.
4. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, THROUGH THE GOVT. PLEADER
HIGH COURT OF KERALA, ERNAKULAM.

R1 TO 4 BY ADV. SRI. S SUDHEESH KUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE BEARING NO.KL-4/U 7610.
- EXT.P2 : TRUE COPY OF TODDY TRANSPORT PERMIT NO.426/09-10/ID/I HY DATED 31.03.2009 ISSUED FROM THE DEPUTY EXCISE COMMISSIONER, PALAKKAD.
- EXT.P3 : TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. 15047/2009 DATED 01.06.2009.
- EXT.P4 : TRUE COPY OF THE DEPOSITION OF THE DETECTING OFFICER DATED 04.08.2009.
- EXT.P5 : TRUE COPY OF MAHAZAR IN CRIME NO.20/2009 OF THRISSUR EXCISE RANGE.
- EXT.P6 : TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. 7098/2010 DATED 05.03.2010.
- EXT.P7 : ORDER NO.R8A-2168/2009) DATED 10.04.2010 BY THE DEPUTY COMMISSIONER OF EXCISE.
- EXT.P8 : ORDER NO.68/APL/2010/AC(X) DATED 16.02.2011 BY THE ADDITIONAL EXCISE COMMISSIONER.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 15897 of 2011

Dated this the 14th day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader, apart from perusing the record.

2. Briefly stated, the petitioner's vehicle bearing registration No. KL-04-U-7610, a Mahindra Pickup Van, was seized by the Excise Inspector, Thrissur Range, alleging that the quantity of toddy being transported through the said vehicle was above the quantity covered by the permits, i.e., 400 litres. The seizure of the vehicle, eventually, resulted in the registration of Crime No. 20 of 2009 on the file of Thrissur Excise Range.

3. Aggrieved by the seizure of his vehicle, when the petitioner filed W.P.(C) No. 15047 of 2009, this Court through Ext.P3 judgment directed the first respondent to consider and dispose of the petitioner's application in that regard. As could be seen from the record, initially in compliance with the

judgment of this Court, though the authorities passed an order giving interim custody of the vehicle to the petitioner on certain conditions, since the petitioner failed to comply with the conditions, the order could not be given effect to. At any rate, the petitioner, eventually, questioning the delay in concluding the main proceedings, filed W.P.(C) No. 7098 of 2010 and invited Ext.P6 judgment. When the first respondent passed Ext.P7 order in compliance with Ext.P6 judgment, the petitioner filed a statutory appeal resulting in the second respondent passing Ext.P8 order.

4. As could be seen from Ext.P8 order of the second respondent, there is a direction to the first respondent to permanently release the vehicle, provided the petitioner is willing to remit the market value of the said vehicle as fixed by the Mechanical Engineer of the Excise Department.

5. The learned counsel for the petitioner has expressed the petitioner's willingness to abide by the said direction in terms of Rule 4(1)(a) and (b) of the Kerala Abkari (Disposal of

Confiscated Articles) Rules, 1996.

6. The learned Government Pleader, on his part, has submitted that the respondent authorities are willing to have present market value of the petitioner's vehicle assessed through the Mechanical Engineer of the Excise Department.

7. In the light of the submissions made by the respective counsel for the petitioner and the learned Government Pleader, I do not see any issue surviving for further consideration. It is suffice if this Court observes that the authorities are at liberty to proceed in accordance with the directions given in Ext.P8 order of the second respondent and have the present market value of the petitioner's vehicle assessed. Once the assessment takes place and the necessary communication is served on the petitioner, it is for the petitioner to pay the amount and take custody of the vehicle.

8. Given the apprehension expressed by the learned counsel for the petitioner that the process may take further time, I make it clear that the petitioner may make an application

in terms of Ext.P8 to the authorities concerned to have the present market value of the vehicle assessed. Once such an application is made by the petitioner, the respondent authorities shall take steps to have the market value of the vehicle fixed and the order communicated to the petitioner as expeditiously as possible, at any rate, within six weeks from the date of the petitioner's submitting a representation in that regard.

This writ petition is disposed of as above. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

