

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 18477 of 2011 (H)  
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PETITIONER(S):  
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1. M/S.EVER GREEN FINANCIERS,  
PARAVOOR BUILDING, CUTCHERRY.P.O., KOLLAM-13  
REPRESENTED BY ITS MANAGING PARTNER, SHYLESH.S.
2. MITHUN T.ABRAHAM,  
PROPRIETOR, WINDSOR BANKERS, 10/573  
THARAYILSSERIL BUILDINGS, THIRUVALLA-689 101.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENT(S):  
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1. THE STATE OF KERALA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT  
DEPARTMENT OF TRANSPORT, THIRUVANANTHAPURAM-695001
2. THE TRANSPORT COMMISSIONER,  
TRANSPORT COMMISSIONERATE, TRANS TOWERS  
THIRUVANANTHAPURAM-695001.
3. REGIONAL TRANSPORT OFFICER,  
REGIONAL TRANSPORT OFFICE, CIVIL STATION  
KOLLAM-691 001.
4. REGIONAL TRANSPORT OFFICER,  
REGIONAL TRANSPORT OFFICE, PATHANAMTHITTA-689645.

BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

APPENDIX

EXHIBITS

P1- TRUE COPY OF THE EXTRACT OF FIRM ISSUED BY THE REGISTRAR OF FIRM TO THE 1ST PETITIONER

P1(a)- TRUE COPY OF THE RECEIPT DATED 22.9.2010 ISSUED BY THE THIRUVALLA MUNICIPALITY TO THE 2ND PETITIONER

P2- TRUE COPY OF THE CERTIFICATE OF REGISTRATION IN RESPECT OF VEHICLES BEARING REGISTRATION NO.KL-02-AB-8956 AND KL-Y-3735

P2(a)- TRUE COPY OF THE CERTIFICATE OF REGISTRATION IN RESPECT OF VEHICLES BEARING REGISTRATION NO.KL-31-B-5182 AND KL-33-B-6525

P3- TRUE COPY OF THE CIRCULAR NO.13/2011 DATED 13.6.2011 ISSUED BY R2

P3(a)- TRUE COPY OF THE LETTER DATED 15.12.2010 OF THE ASSISTANT GENERAL MANAGER, RBI, THIRUVANANTHAPURAM

P4- TRUE COPY OF THE CIRCULAR NO.14/2011 DATED 28.6.2011 ISSUED BY R2

P5- TRUE COPY OF THE RECEIPT DATED 28.6.2011

P6- TRUE COPY OF THE INTERIM ORDER DATED 30.6.2011 IN W.P.(C). 17612/2011 ALONG WITH THE ORDER IN WP(C).17402/2011

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P.A. To Judge

**K.VINOD CHANDRAN, J**

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W.P.(C).No. 18477 of 2011  
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Dated 15<sup>th</sup> January, 2015  
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## **JUDGMENT**

It is submitted that the 1<sup>st</sup> petitioner has a licence under the Kerala Money Lenders Act, 1958 (Act of 1958) and hence, in view of the Circular No.14/2011 dated 28.06.2011 issued by the Transport Commissioner, any hypothecation to be endorsed under Section 51 of the Kerala Motor Vehicles Act, 1988, would be permissible in the case of the 1<sup>st</sup> petitioner.

2. However, with respect to the 2<sup>nd</sup> petitioner, it is to be noticed that he does not have a licence to carry on financing activities either under the Reserve Bank of India Act or under the Kerala Money Lenders Act, 1958. Section 3 of the Act of 1958 prohibits any person from carrying on or continuing any business as a money lender without a licence

obtained under the Act of 1958. In such circumstances, despite the interim order granted, this Court refuses to consider the prayer for consideration of endorsement under Section 51 on the basis of the definition of the financier under Rule 2(d) of the Central Motor Vehicles Rules 1989. Any activity of finance carried on within the State would be illegal insofar as no licence having been obtained under the Act of 1958. This Court would not issue any direction to perpetrate an illegality.

The writ petition would stand disposed of as against the 1<sup>st</sup> petitioner and dismissed, with respect to the 2<sup>nd</sup> petitioner.

Sd/-

**K.VINOD CHANDRAN**  
**Judge**

Mrcs

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