

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 16770 of 2015 (U)

PETITIONER(S) :

**VARGHESE K.J., S/O.JOHNY,
KOKKADAN HOUSE, PUDUKAD, KODAKARA,
THRISSUR, PIN- 680 301.**

**BY ADVS.SRI.BIMAL K.NATH
SRI.SREEVALSAN.V
SMT.M.K.SHIMI
SMT.DIVYA C BALAN
SRI.D.SREENATH**

RESPONDENT(S) :

- 1. THE REGISTERING AUTHORITY,
SUB REGIONAL TRANSPORT OFFICE,
IRINGALAKKUDA(THRISSUR)- 680 301.**
- 2. HARIDAS C.M.,
S/O.C.N.MURALEEDHARAN, CHOOZHATHIPARAMBIL,
KADUNGAMANGALAM P.O-682 305,
AMBADIMALA, KUREEKAD VILLAGE, KANAYANNOOR,
THIRUVANKULAM, ERNAKULAM.**
- 3. THE MANAGER,
MAHINDRA & MAHINDRA, FINANCIAL SERVICE LTD.,
2ND FLOOR, SEVANAM BUILDING, VAZHAKKALA,
ERNAKULAM, PIN- 682 021.**

R1 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: A TRUE COPY OF THE SALE CERTIFICATE REGARDING THE SALE OF THE ABOVE VEHICLE TO THE 2ND RESPONDENT.

EXHIBIT P2: A TRUE COPY OF THE TEMPORARY REGISTRATION CERTIFICATE.

EXHIBIT P3: A TRUE COPY OF THE LETTER DATED 15.10.2014.

EXHIBIT P4: A TRUE COPY OF THE COMMUNICATION OF THE 3RD RESPONDENT STATING THE CANCELLATION OF ENDORSEMENT OF HYPOTHECATION.

EXHIBIT P5: A TRUE COPY OF THE APPLICATION FOR PERMANENT REGISTRATION SUBMITTED TO THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 16770 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

Aggrieved by the non acceptance of the application for registration of the motor vehicle, the petitioner has come up before this Court.

2. The petitioner alleges that his vehicle was originally purchased by the 2nd respondent and was hypothecated to the 3rd respondent. After the purchase of the said vehicle, the 2nd respondent obtained a temporary registration from the RTA, Ernakulam. Later, the 2nd respondent, due to his inability to repay the loan amount, had given possession of the vehicle to the 3rd respondent, to which the same was hypothecated; and later, the petitioner bought the said vehicle from the 3rd respondent in an auction sale; it is alleged. The petitioner's grievance is that though he approached the 1st respondent for permanent registration of the vehicle as per Ext.P5, the

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1st respondent refused to accept the application. Hence, this writ petition.

3. In the statement filed by the State, it was stated that the application submitted by the petitioner is rejected as fresh registration of the vehicle would be issued to the buyer of the vehicle and not to the petitioner. They pointed out that Rule 47 of the Central Motor Vehicles Rules provides that for registration of the vehicle, an application by or on behalf of the motor vehicle for registration shall be in Form 20 and shall be accompanied by necessary documents and particulars within the period. It was further stated that the petitioner submitted the particulars such as temporary registration, Ext.P2 sale letter in Form 21 etc. issued by the RTO and the dealer in the name of the 2nd respondent. Sub Section 3 of Section 41 of the Motor Vehicles Act states that the registering authority shall issue to the owner of the motor vehicle registered by it, a certificate of registration in such form and containing such

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particulars and information and such manner as prescribed by the Central Government; and therefore, as per Section 41 of the Motor Vehicles Act, registration certificate would be issued only to the buyer and not to the petitioner. According to them, in this case, the petitioner is the possessor of the vehicle and not the buyer; and therefore, the application filed by the petitioner for registering the vehicle in the name of the petitioner could not be accepted as sale letter in Form 21, invoice and temporary registration etc. are in the name of the 2nd respondent. Therefore, they have taken the stand that they are not in a position to register the vehicle in the name of the petitioner.

4. Arguments have been heard.

As the limited prayer in this writ petition is for a direction to the 1st respondent for accepting Ext.P5 application, the writ petition is disposed of directing the 1st respondent to accept Ext.P5 application and pass appropriate orders in accordance with law after affording

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the petitioner an opportunity of being heard, within a period of two weeks from the date of receipt of a copy of this judgment.

To facilitate an early action, the petitioner shall be at liberty to produce a copy of this judgment as well as a copy of this writ petition before the 1st respondent at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-