

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 18211 of 2014 (B)

PETITIONER(S):

**RAJESH R.S., AGED 34 YEARS,
S/O. SADASIVAN NAIR, REKHA NIVAS,
AROOR P.O., CHERTHALA, NOW RESIDING AT
PADINJARE ALAPPURATH, AROOR P.O., CHERTHALA.**

**BY ADVS.SRI.B.PRAMOD,
SRI.BENSON J LAWRENCE.**

RESPONDENT(S):

- 1. THE JOINT REGIONAL TRANSPORT OFFICER,
THE SUB REGIONAL TRANSPORT OFFICE, ALAPPUZHA.**
- 2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, CHERTHALA, ALAPPUZHA.**
- 3. THE VILLAGE OFFICER ,
AROOR VILLAGE, CHERTHALA, ALAPPUZHA DISTRICT.**
- 4. VIJAYANIRMALA ,
VIJAYA BHAVAN, AROOR P.O., CHERTHALA.**
- 5. SHRIRAM TRANSPORT FINANCE COMPANY LTD.,
123, ANGAPPA NAIKKAN STREET, CHENNAI,
REPRESENTED BY ITS MANAGING DIRECTOR.**

R1 TO R3 BY SR. GOVT. PLEADER SRI.BIJU MEENATTOOR.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 18211 of 2014 (B)

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 : COPY OF THE DEMAND NOTICE DATED 14.08.2013 ISSUED BY THE 1ST RESPONDENT.
- P2 : COPY OF THE NOTICE DATED 23.05.2014 ISSUED BY THE 2ND RESPONDENT U/S.7 OF THE KERALA REVENUE RECOVERY ACT.
- P3 : COPY OF THE NOTICE DATED 23.05.2014 ISSUED BY THE 2ND RESPONDENT U/S.34 OF THE KERALA REVENUE RECOVERY ACT.
- P4 : COPY OF THE REPRESENTATION DATED 25.06.2014 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J.
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W.P.(C) No.18211 of 2014 - B
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Dated this the 6th day of March, 2015

J U D G M E N T

The petitioner is aggrieved with the proceedings taken against the petitioner for tax dues of a vehicle bearing Registration No. KL-7-H-7727. The petitioner has a case that, the vehicle belongs to the 4th respondent, who is even now the registered owner of the vehicle. The petitioner obtained the vehicle only by way of an agreement, which according to the petitioner, was a device employed by the 4th respondent to absolve the vehicle from any attachment towards her dues.

2. In any event it is to be noticed that, as per the agreement, the petitioner has obtained possession of the vehicle. The petitioner also has a contention that, the vehicle was surrendered to the financier, the 5th respondent and later dismantled. There is nothing on record to

evidence these facts, which are merely averred in the writ petition.

3. As per Section 3(3) of the Kerala Motor Vehicles Taxation Act, 1976, the levy of such tax is on the registered owner or any person having possession or control of the motor vehicle. Since, joint and several liability is on the registered owner or any person, having possession or control of the vehicle, the petitioner also would be liable for the tax. It is the department's prerogative to proceed against either of the said persons. If the petitioner has a contention that, the vehicle was not in fact sold to him, then the petitioner's remedy would be to proceed against 4th respondent in the appropriate forum for any tax paid by him. That cannot interdict the department from realising the tax amounts from the petitioner.

4. It is submitted that, at this point of time, there is a one time settlement (OTS) by which the petitioner could pay the amounts due as tax, as also absolve himself from

any future liability on making an undertaking that the vehicle is dismantled. The said OTS has been introduced by the Government as per G.O(P) No. 91/2014. If the petitioner is entitled to claim the benefit of the scheme, necessarily, the petitioner could claim such benefits.

5. Further proceedings for recovery of the balance amounts shall be stayed for one month only to enable the petitioner to settle the liability as per the OTS. If the petitioner does not settle the same within one month, then necessarily, the recovery proceedings will be proceeded with.

The writ petition would stand dismissed, reserving liberty to the petitioner to proceed against the 4th respondent before the appropriate forum.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge