

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 18468 of 2015 (G)

PETITIONER :

**M.P. MUHAMMED ASHRAFF, AGED 37 YEARS,
S/O.MUHAMMED, RESIDING AT MULAKKARRARAMBIL
CHERIYAPARAPPUR, V.P. PURAM P.O., TIRUR - 676 102
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH**

RESPONDENTS:-:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY,
MOTOR VEHICLES DEPARTMENT, SECRETARIAT,
TRIVANDRUM - 695 001.**
- 2. THE JOINT REGIONAL TRANSPORT OFFICER,
TIRUR MALAPPURAM DISTRICT - 670 101.**
- 3. THE REGIONAL TRANSPORT OFFICER,
PATTAMBI, PALAKKAD DISTRICT - 679 303.**
- 4. FIROZ C., AGED 38 YEARS,
S/O. ALIMON, CHEMMALA HOUSE, VETOM
PALLIPRAM AMSOM, CHERIYAPARAPUR DESOM, V.P.PURAM P.O.
B.P.ANGADI, TIRUR, MALAPPURAM DISTRICT - 670 101.**
- 5. SHIHAB, AGED 37 YEARS,
S/O. YAHOO, RESIDING AT 6/8, CHAMMALA,
TRIPRANGODE, V.P. PURAM, TIRUR
MALAPPURAM DISTRICT - 670 101.**
- 6. MUHAMMED MUNEER
S/O. SAIDALIKUTTY, RESIDING AT THAZHIYAPARAMBIL HOUSE,
NEDUNGATOOR P.O., THIRUVENGAPURA, PATTAMBI,
PALAKKAD DISTRICT - 679 303.**
- 7. THE DISTRICT COLLECTOR
MALAPPURAM DISTRICT - 670 001.**

R1 TO R3 & R7 BY GOVERNMENT PLEADER SMT. K.A. SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-06-2015, THE COURT ON 10-07-2015 DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:** THE TRUE COPY OF THE REGISTRATION PARTICULARS ISSUED TO THE PETITIONER DATED 28.03.2015 BY THE 2ND RESPONDENT.
- EXHIBIT P2:** TRUE COPY OF THE AGREEMENT DATED 03.03.2014 ENTERED IN TO BETWEEN THE PETITIONER AND THE 6TH RESPONDENT.
- EXHIBIT P3:** TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED DATED 03.05.2014 BY THE 3RD RESPONDENT UNDER SECTION 48(2) OF THE MOTOR VEHICLES ACT.
- EXHIBIT P4:** TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 7TH RESPONDENT.
- EXHIBIT P5:** TRUE COPY OF THE COMMUNICATION ISSUED DATED 29.11.2013 BY THE 7TH RESPONDENT TO THE DISTRICT POLICE CHIEF WITH COPY TO THE JOINT REGIONAL TRANSPORT OFFICER RECEIVED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT ALONG WITH THE COVERING LETTER DATED 18.05.2015.

RESPONDENT(S)' EXHIBITS : **NIL.**

//TRUE COPY//

P.A. TO JUDGE

bp

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18468 of 2015

Dated this the 10th day of July, 2015.

JUDGMENT

Aggrieved by the inaction on the part of the second respondent in transferring the ownership of the vehicle bearing registration No.KL-55 B-2671 Tipper Lorry in the name of the petitioner, the petitioner has come up before this Court.

2. The petitioner alleges that the original owner of the tipper lorry bearing registration No.KL-55-B-2671 at the time of registration of the vehicle was the fourth respondent. He sold the vehicle to the fifth respondent, who got the vehicle registered in his name on 12.2.2013. Subsequently, it was purchased by the sixth respondent who got it registered in his name on 6.3.2013. The petitioner alleges that the second respondent on 3.3.2014, had entered into an agreement with the petitioner and handed over the vehicle to the petitioner as per Ext.P2. On the basis of which, the petitioner paid an amount of Rs.3,00,000/- to the sixth respondent. After giving

possession of the vehicle, the 6th respondent had applied for a No Objection Certificate under Section 48 of the Motor Vehicles Act and accordingly Ext.P3 clearance certificate was issued by the third respondent on 3.5.2014 under Section 48 (2) of the Motor Vehicles Act. The grievance of the petitioner is that the second respondent in whose jurisdiction the transfer of ownership of the vehicle is to be effected, has not transferred the vehicle in the name of the petitioner on the ground that the 7th respondent by a communication restrained the transfer of ownership of the vehicle. The petitioner alleges that the 7th respondent is not having any jurisdiction to issue an order of transfer of ownership of the vehicle under Section 27(3) of the Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned Senior Government Pleader on instructions submitted that the vehicle was taken into custody

on account of illegal transportation of sand on 15.12.2015. As per the order of the Judicial First Class Magistrate Court, Tirur in C.M.P.No.7379 of 2012 dated 14.11.2012, the vehicle has been handed over to Sri.Feroz, who was then registered owner on 14.11.2012.

5. As the person who availed the custody of the vehicle has not remitted the amount ordered by the District Collector, by Ext.P5 order dated 29.11.2013, the District Police Superintendent was directed by the District Collector to take custody of the vehicle. The copy of the same was marked to the concerned Joint RTO, Tirur.

6. In this writ petition, the petitioner is seeking a direction to the second respondent to effect the transfer after quashing Ext.P5. No reason is forthcoming from the petitioner as to why he did not challenge Ext.P5 before this forum at appropriate time.

Therefore, the only option before the petitioner is to clear the dues on account of the imposition on the amount by the

authority concerned. The petitioner is not entitled to get the relief as prayed for as a shortcut method.

Therefore, the writ petition fails and accordingly it is dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.