

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 19349 of 2015 (P)

PETITIONER(S):

**MAGMA FIN CORP LTD.,
1ST FLOOR, JAIN TOWER, POWER HOUSE JUNCTION,
N.H. BY PASS, VYTTILA, ERNAKULAM,
REPRESENTED BY ITS AUTHORIZED SIGNATORY,
RAKESH DAWNY KOKKATH.**

**BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.S.PRAVEEN**

RESPONDENT(S):

- 1. THE ADDITIONAL REGISTERING AUTHORITY,
MOTOR VEHICLES DEPARTMENT, KANNUR, PIN - 670 001.**
- 2. THE REGISTERING AUTHORITY,
MOTOR VEHICLES DEPARTMENT, ERNAKULAM, PIN - 680 030.**
- 3. THE MANAGER,
APCO AUTOMOBILES PVT. LTD., MEENCHANDA, CALICUT,
PIN - 673 002.**
- 4. P.T.P. MUHAMMED ISMAIL,
S/O.ABDUL SALAM HAJI, ZAINABA MANZIL, KAMBIL P.O.,
KOLASSERY, KANNUR, PIN. 670 604.**

R1 & R2 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 19349 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 - TRUE COPY OF THE TEMPORARY CERTIFICATE OF REGISTRATION
DATED 13.12.2013.**

**P2 - TRUE COPY OF THE REQUEST DATED 11.3.2015 SUBMITTED BY THE
PETITIONER TO THE 3RD RESPONDENT.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.19349 of 2015

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Dated this the 4th day of August, 2015

JUDGMENT

The petitioner, who is the financier, is seeking change of registration of the vehicle in his favour

2. The petitioner is the financier in respect of Tata 104 open body vehicle which was purchased by the fourth respondent. The petitioner alleges that the vehicle was temporarily registered in the name of the fourth respondent. The fourth respondent failed to effect permanent registration to the vehicle and also failed to repay the loan. Later, the petitioner repossessed the vehicle legally.

3. The petitioner intends to get the vehicle permanently registered in his name. However, the fourth respondent failed to handover the documents i.e. Form Nos.21, 22 and temporary registration certificate to the petitioner. The petitioner points out that it is the statutory duty of the dealer and manufacturer to issue these certificates. However, in spite of the petitioner's request they have not issued the same. It is with this background, the petitioner has approached this Court.

4. Arguments have been heard.

5. The petitioner alleges that the vehicle has been repossessed by him, who is the financier, and as per Section 51(5) of the Motor Vehicles Act, the registering authority has to register the vehicle in his favour. The registration can be effected without insisting for production of originals of the documents required for registration, when they are not traceable.

6. There is a statutory duty on the manufacturer and dealer to issue form Nos.21 and 22 certificates which are required for registration. Form No.22, the road worthiness certificate, was issued by the manufacturer through the authorised dealer. When the originals are lost, the dealer is bound to issue duplicates of the same.

7. Though notice has been issued to the third respondent dealer, he has not turned up. Therefore, this Court is of the view that the official respondent be directed to consider the application for registration in the name of the petitioner on production of duplicate or photocopy of the original registration certificate after issuing notice and hearing the fourth respondent.

In the result, the writ petition is disposed of directing the first respondent to consider the application for registration of the vehicle in the name of the petitioner. The petitioner shall produce photocopies of the original registration certificate. The first respondent shall issue notice and hear the fourth respondent also. The matter shall be considered and the decision shall be taken in accordance with law, expeditiously, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj

The last three sentences in the decretal portion of the judgment dated 4/08/2015 in W.P(C) No.19349/2015 is corrected as follows:

"The petitioner shall produce photocopies of the documents required for the registration before the second respondent who shall issue notice to the 4th respondent for hearing. The matter shall be considered after hearing both sides and the decision shall be taken in accordance with law as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment."

The above correction is made as per order dated 14/10/2015 in I.A 14625/2015 in W.P(C) No.19349/2015.

Sd/-

Registrar (Judicial)