IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 25920 of 2009 (H)

PETITIONER(S):

P.K.JALEEL, PROPRIETOR, P.K.BROTHERS,
EDAMUTTOM P.O., THRISSUR DISTRICT.

BY ADVS.SRI.JIJO PAUL
SRI.K.B.GANGESH

RESPONDENT(S):
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1. THE JOINT REGIONAL TRANSPORT OFFICER,
   SUB REGIONAL TRANSPORT OFFICE, GURUVAYOOR
   THRISSUR DIST. - 680 101

2. K.H.LATHEEF, S/O.K.M.HASSAINAR,
   HOUSE NO.12/1216, KALLATTIL HOUSE, PANAGAPILLY
   THOPPUMPADY, COCHIN-2.

3. THE REGIONAL TRANSPORT OFFICER,
   REGIONAL TRANSPORT OFFICE, THRISSUR - 680 001

R,R2 BY ADV. SRI.P.S.GEORGE
R1 & 3 BY ADV. GOVERNMENT PLEADER SRI. T.J. MICHAEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 25920 of 2009 (H)

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1 **COPY OF THE RELEVANT PAGES OF THE REGISTRATION CERTIFICATE OF THE VEHICLE NO.KL-8N-2768 OF THE PETITIONER.**

EXT.P2 **COPY OF THE AGREEMENT ENTERED BETWEEN THE PETITIONER AND 2ND RESPONDENT DATED 6.5.08**

EXT.P3 **COPY OF THE CERTIFICATE, EVIDENCING THAT THE PETITIONER HAD PAID THE MOTOR VEHICLE TAX UPTO 10.4.08.**

EXT.P4 **COPY OF THE FITNESS CERTIFICATE IN RESPECT OF THE PETITIONER'S VEHICLE UPTO 4.11.08 ISSUED ON 5.11.07.**

EXT.P5 **COPY OF THE RELEVANT PAGES OF THE REGISTRATION CERTIFICATE OF VEHICLE NO.KL-8T-833.**

EXT.P6 **COPY OF THE CERTIFICATE EVIDENCING THAT THE PETITIONER HAS PAID THE MOTOR VEHICLE TAX FOR THE VEHICLE COVERED BY EXT.P5, UPTO 1.4.08.**

EXT.P7 **COPY OF THE CERTIFICATE OF FITNESS DATED, 21.7.07, EXPIRING ON 23.7.08 ISSUED IN RESPECT OF VEHICLE COVERED BY EXT.P5.**

EXT.P8 **COPY OF THE COMMUNICATION DATED 14.10.08 ISSUED BY THE PETITIONER TO THE FIRST RESPONDENT.**

EXT.P9 **COPY OF THE COMMUNICATION DATED 18.6.09 FROM THE REGIONAL TRANSPORT OFFICE, THRISSUR TO THE PETITIONER.**

ADDL.EXT.P10 COPY OF THE NOTICE DATED 29.6.11.

RESPONDENTS EXHIBITS: NIL

// TRUE COPY //

P.A TO JUDGE.

SB

K. VINOD CHANDRAN, J.
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W.P.(C) No.25920 of 2009 - H
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Dated this the 5th day of January, 2015

J U D G M E N T

The petitioner admittedly was the registered owner of two trucks bearing Registration Nos.KL-8N-2768 and KL-8T-833. The petitioner claims that he sold the vehicle to the 2nd respondent, the agreement of which is exhibited as Ext.P2. The petitioner is aggrieved with the recovery proceedings initiated as per Ext.P9 and Ext.P10, for tax due on the said vehicles for the period from 01.07.2008 to 30.06.2009 and 01.01.2011 to 30.06.2011, respectively.

2. It is to be noticed that, after sale of a motor vehicle, for effecting transfer of ownership, the transferor shall intimate the Registering Authority, within whose jurisdiction the transfer is made, that factum of transfer in such form with such documents and in such manner, as may

be prescribed by the Central Government, as per Section 50(1)(a)(i) of the Motor Vehicles Act, 1988. Admittedly, no such intimation has been given to the Registering Authority. The petitioner relies on an agreement, which, according to him, evidences the factum of transfer, to the 2nd respondent and on intimation evidenced by Ext.P8.

3. Transfer of a vehicle and handing over of valid possession, by way of an agreement is an accepted practice, which is also legally permissible. Section 3 of the Kerala Motor Vehicles Taxation Act, 1976 provides for levy of tax; and sub-section (3) provides that the registered owner or any person having possession or control over a motor vehicle shall be deemed to use or has kept such vehicle for use in the State. Hence, the official respondents 1 and 3 are perfectly entitled to proceed against the registered owner, as also the person who is in possession or control over the vehicle. If any dispute as to the possession or control of a vehicle is in existence between the parties, the

same would have to be necessarily adjudicated before the appropriate civil forum. But, that would not, in any way, affect the right of the Department to proceed against either of the aforesaid persons for satisfaction of tax liability.

4. It is also the option of the authorities to proceed to seize the vehicle and sell it for recovery of tax dues. That will not preclude the authority from enquiring into as to who is in control of the vehicle and in proceeding against such person. It is also open to the authorities to proceed either against the registered owner or against the person in control of the vehicle, or even together, since, the liability to pay tax under Section 3(3) is; joint and several. Hence, the proceedings, now taken against the petitioner, the registered owner of the vehicle, cannot be faulted.

5. If the petitioner wants to deposit the amounts in instalments, the petitioner shall approach the authority within a period of one month and the authority shall grant six equal monthly instalments. The payment, if any, made by

the petitioner, as aforesaid, will not stand against the right of the petitioner to proceed against the 2nd respondent; before the appropriate forum. It is made clear that the Taxation authorities shall be entitled to proceed against the petitioner, or the 2nd respondent, or for sale of the vehicle itself, for recovery of tax, the option for which, is within the exclusive domain of the authority.

With the above observations, the writ petition stands dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy /

P.A To Judge.