IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 24817 of 2014 (B)

PETITIONER:

K.V KUMARAN,
ARUKATHPARAMBA, P.O MADIKKAI, NEELESWARAN,
KASARAGOD DISTRICT.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S) :
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1. **THE JOINT REGIONAL TRANSPORT OFFICER,**
   KANHANGAD - 671 315.

2. **M/S SHRIRAM TRANSPORT FINANCE COMPANY LIMITED.,**
   KANHANGAD BRANCH, KANHANGAD,
   KASARAGOD DISTRICT - 671 315.

3. **P.V LAKSHMI,W/O E.K. RAGHUNATH,**
   SUMATHIPURAM, KUTTANPATH,
   CHERUVATHOOR, KASARAGOD - 671 121.

4. **THE AUTHORISED OFFICER (SPECIAL DEPUTY TAHASILDAR),**
   REVENUE RECOVERY, KASARAGOD - 671 121.

R1 & R4 BY SR GOVERNMENT PLEADER SMT. SOBHA ANNAMMA EAPEN
R2 BY ADV. SRI.RAJESH NAMBIAR
R3 BY ADV. SRI.MAHESH V RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 24817 of 2014 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 : COPY OF THE RECEIPT DATED 10.02.2011

EXHIBIT P2 : COPY OF THE RECEIPT DATED 09.07.2011

EXHIBIT P3 : COPY OF THE AWARD IN AOP NO.NO.63/2012 PASSED BY THE SOLE ARBITRATOR

EXHIBIT P4 : COPY OF THE MEMO DATED 14.08.2013 ISSUED BY THE 1ST RESPONDENT

EXHIBIT P5 : COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT

EXHIBIT P6 : COPY OF REVENUE RECOVERY NOTICE ISSUED BY THE 4TH RESPONDENT

RESPONDENT(S)' EXHIBITS

EXHIBIT R2(A): COPY OF THE LOAN ACCOUNT STATEMENT.

EXHIBIT R2(B): COPY OF THE RECEIPT EVIDENCING PAYMENT OF RS.1,60,000/- BY THE 3RD RESPONDENT.

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.24817 of 2014 (B)

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Dated this the 3rd day of February, 2015

JUDGMENT

The petitioner, who was the owner of a stage carriage bearing registration No.KL-13-8033, which was hypothecated with the 2nd respondent, is aggrieved by the steps taken by the 1st respondent to demand the Motor Vehicle Tax in respect of the said vehicle for a period from 01.07.2010 to 30.09.2013 from the petitioner.

2. It is the case of the petitioner that, pursuant to a default in re-payment of the loan amount availed from the 2nd respondent, the 2nd respondent had taken possession of the vehicle from the petitioner, and subsequently transferred the vehicle in favour of the 3rd respondent. Under those circumstances, the petitioner would contend that, the liability to the tax demanded from him would be either on the 2nd respondent or on the 3rd respondent depending upon, who had the possession of the vehicle during the relevant period. It is submitted that, the petitioner has filed a detailed representation pointing out these aspects before the 1st respondent and, insofar as there is a dispute on factual matters, it would be necessary for the 1st respondent to consider Ext.P5 objection submitted by the petitioner and pass orders therein, after hearing the petitioner and the 2nd and 3rd respondents.

3. A counter affidavit has been filed by the 2nd respondent as well as the 3rd respondent wherein the averment in the writ petition, that the possession of the vehicle was taken over by the 2nd respondent and thereafter handed over to the 3rd respondent, is vehemently denied by both the respondents.

4. I have heard Sri.O.D.Sivadas, learned counsel for the petitioner, learned Government Pleader for the 1st and 4th respondents, Sri.Rajesh Nambiar, learned counsel for the 2nd respondent and Sri.Mahesh V.Ramakrishnan, learned counsel for the 3rd respondent.

5. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I am of the view that inasmuch as there is a factual dispute between the petitioner and the 2nd and 3rd respondents, as to who was in possession of the vehicle during the relevant point of time, this is something that may have to be determined between the petitioner and the 2nd respondent in an appropriate forum. As far as the liability of the petitioner to motor vehicle tax for the period from 01.07.2010 to 30.09.2013 is concerned, this is a matter that would have to be considered by the 1st respondent, after looking into Ext.P5 objection that has been filed by the petitioner. In taking a decision in the matter, the 1st respondent will consider the fact,

as to who is shown as the registered owner of the vehicle in the records before the motor vehicle authorities, and further whether the petitioner has produced any material to show that, during the relevant point of time, he did not have either the possession, control or ownership over the vehicle, consequent to the possession of the vehicle being handed over to any other person such as the 2nd or 3rd respondents. The 1st respondent shall consider the matter in the light of the above observations and pass an order within a period of two months from the date of receipt of a copy of this judgment, after hearing the petitioner, 2nd and 3rd respondents. The interim order of stay, against recovery proceedings against the petitioner, that was in operation during the pendency of the writ petition, shall continue till such time as the 1st respondent passes orders as directed, and communicates the same to the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/04/02/