IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

WP(C).No. 25900 of 2014 (J)

PETITIONER :

MARY JOSEY
W/O.LATE A.K.JOSEY,
KARTHU'S DALE, CHULLICKAL
KOCHI - 682 005.

BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SHUBHA ABRAHAM

RESPONDENT(S) :

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1. THE JOINT REGIONAL TRANSPORT OFFICER,
SUB REGIONAL TRANSPORT OFFICE
MATTANCHERRY - 682 005.

2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
KOCHI - 682 001.

R1 & R2 BY GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

...2/-

WP(C).No. 25900 of 2014 (J)

<u>APPENDIX</u>

PETITIONERS' EXHIBITS :

EXT. P1: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.430/2007 OF KALPAKANCHERRY POLICE STATION IN MALAPPURAM DISTRICT DATED 12/10/2007.

EXT. P2: TRUE COPY OF THE ACKNOWLEDGMENT ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT DATED 5/9/2008.

EXT. P3: TRUE COPY OF THE RECOVERY NOTICE NO.A2-1554/14 ISSUED BY THE 2ND RESPONDENT DATED 31/7/2014.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No.25900/2014

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Dated this the 19th Day of June, 2015

<u>J U D G M E N T</u>

The petitioner challenges revenue recovery proceedings to recover motor vehicle tax due from him in respect of vehicle bearing registration No.KL- 07/AH 3872.

2. The case of the petitioner is that the demand notice issued to her is without passing any order under Section 26 of the Kerala Motor Vehicles Taxation Act, 1976 (for short, "KMV Taxation Act"). The petitioner submits that the vehicle was totally destroyed in an accident in the year 2007 and an FIR was registered and the RC book of the said vehicle was also surrendered.

3. The first respondent has filed a counter affidavit. In the counter affidavit, it is stated that the vehicle was scrapped on 01/08/2008 and therefore, the registered owner of the vehicle is bound to remit tax till 01/08/2008. It is also stated therein that the petitioner had submitted an

application for cancellation of Registration Certificate of the vehicle on 05/09/2008 and the surrender of the Registration Certificate was accepted without collecting arrears of tax. It is further stated that the petitioner has not intimated the reason for non payment of tax till 07/05/2014 and therefore, revenue recovery steps were initiated against the petitioner.

4. I am of the view that necessarily, an inquiry has to be conducted as to whether the petitioner's vehicle had suffered loss as claimed by her. It has to be dealt with in terms of Section 26 of the KMV Taxation Act, to fix liability, and after giving an opportunity of being heard to the petitioner.

5. In the light of the above, the impugned order is set aside. The first respondent is directed to initiated action in accordance with Section 26 of the KMV Taxation Act, after notice to the petitioner and the same shall be concluded within three months.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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