

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C) .No. 26710 of 2014 (K)

PETITIONER(S) :

C.H.MUNEER
V.V.K.HOUSE, THILANUR, THAZHE CHOVVA.P.O.
KANNUR-18.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S) :

THE REGISTERING AUTHORITY
KANNUR-670 001. (REGIONAL TRANSPORT OFFICER
KANNUR) .

BY SR. GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 26710 of 2014 (K)

APPENDIX

PETITIONER(S) ' EXHIBITS

- P1- COPY OF THE REGISTRATION CERTIFICATE.
- P2- COPY OF THE ORDER DATED 22.10.2012 ISSUED BY THE RESPONDENT.
- P3- COPY OF THE ORDER DATED 19.2.2013 ISSUED BY THE APPELLATE AUTHORITY.
- P4- COPY OF THE EXTRACT OF THE REGISTRATION PARTICULARS FROM THE ORIGINAL REGISTERING AUTHORITY.
- P5- COPY OF THE ORDER DATED 3.7.2014 ISSUED BY THE RESPONDENT.

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

ANU SIVARAMAN, JJ.

W.P(C).No.26710 of 2014

Dated this the 16th December, 2015

JUDGMENT

This writ petition is filed challenging Exhibit P5 order issued by the first respondent registering authority. The contention in the writ petition is that the petitioner purchased a vehicle originally bearing registered mark No.TN-23-L/1743 from Tamil Nadu brought it to Kerala and filed application for assigning of a new registration mark under Section 47 of the Motor Vehicles Act (for short, 'the Act'). The application for assigning of registration mark was initially rejected by Exhibit P2 dated 22.10.2012. The reason stated in Exhibit P2 was that the overhang of the vehicle was in excess of the permitted specification. The contention of the petitioner is that under Section 47 of the Act, there is no power in the authority concerned to consider any matters which are mentioned in the said Section for assigning of new registration mark. The petitioner filed an appeal against

Exhibit P2, which was disposed of by Exhibit P3 order. In Exhibit P3 the registering authority was directed to consider whether the alteration was with the permission of the original registering authority. Though the petitioner had produced Exhibit P4 to show that the vehicle had been registered as light motor vehicle recovery vehicle (non transport), the respondent by Exhibit P5 order found several defects in the vehicle including that the original authority had not permitted the alteration. This is under challenge in the writ petition.

2. Heard learned counsel for the petitioner and the learned Senior Government Pleader appearing for the respondent.

3. It is the specific contention of the learned counsel for the petitioner that Section 47 of the Act does not provide for verification of the type of vehicle or whether the vehicle fails to comply with the requirements of the Act or Rules. It is to be noted that vehicle registered in one State is permitted to

operate throughout the country by virtue of Section 46 of the Act. Section 47 only provides that when a motor vehicle registered in one State has been kept in another State for a period exceeding twelve months, the owner of the vehicle shall apply to the registering authority for the assignment of a new registration mark. The only requirement is that the application should be accompanied by the documents mentioned in the Section. It is pertinent to note that sub-section (2) of Section 47 specifically provides that the registering authority, to which application is made under sub-section (1) of Section 47, shall, after making such verification, as it thinks fit, of the returns, if any, received under Section 62, assign the vehicle a registration mark as specified in sub-section (6) of Section 41 to be displayed on the vehicle. It is clear that the verification to be made by the authority to which the application is made under Section 47 is confined to the verification of returns under Section 62 or with respect to no objection certificate in case a vehicle is

held under hire purchase agreement. This Court had, in the decision reported in ***Ramakrishnan v. Regional Transport Officer*** (1992(2) ILR Ker.740), held that if the petitioner wants only a new registration mark and change the address, there can be no objection in granting the same, provided the classification made is the same as in the original registration certificate. It was also held that since under Section 46 of the Act registration effected in Tamil Nadu will be valid and effective throughout India, assignment of new registration mark and change of address of the vehicle can be given even without any modification required under Rule 269 of the Kerala Motor Vehicles Rules. This view has been re-iterated in a decision reported in ***Gangadharan v. Registering Office, Kannur*** (2003(2) KLT 651).

4. On a reading of the provisions contained in Sections 45, 46 and 47 of the Act, it is clear that the requirement of an enquiry into the other conditions contained in Section 45

of the Act are conspicuous by its absence in Section 47. Section 47 only applies to the grant of assignment of new registration mark in respect of a vehicle which is already registered in an other State. The enquiry into the details regarding compliance with the requirement of the Act, mechanical defect etc., which have been adverted to in Exhibit P5 cannot legally be made under the provisions of Section 47 of the Act. No provision in the Kerala Motor Vehicles Rules has also been brought to my notice which would empower the respondent to take up the objections as has been done in Exhibit P5.

In the above circumstances, Exhibit P5 is set aside. The respondent is directed to consider the application preferred by the petitioner for assignment of new registration mark and assign the registration mark as provided under Section 47 of the Act without adverting to the objections raised in Exhibit P5. Orders as above shall be passed within a period of one month from the date of receipt of a copy of this

judgment. The petitioner shall produce a copy of this judgment before the respondent for compliance.

The writ petition is ordered accordingly.

**ANU SIVARAMAN
JUDGE**

vgs