

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 36331 of 2007 (A)

PETITIONER :

**E.T. THOMAS,
S/O. V.T.THOMAS,
EATTIKKAL HOUSE,
MOOLAMKAVE P.O.,
KUPPADI, WAYANAD.**

BY ADV. SRI.RAJESH VIJAYAN

RESPONDENT(S) :

- 1. KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION (KTDFC),
REPRESENTED BY ITS MANAGING DIRECTOR,
TRIDA COMMERCIAL COMPLEX, PALAYAM
THIRUVANANTHAPURAM.**
- 2. CIRCLE INSPECTOR OF POLICE,
SULTHAN BATHERY.**
- 3. SHRIRAM INVESTMENT LTD.,
REPRESENTED BY ITS BRANCH MANAGER, BRANCH OFFICE
KEERTHI TOWER, CHUNGAM, SULTHAN BATHERY.**

**R1 BY ADV. SRI.K.SHIBILI NAHA
R2 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN
R3 BY ADV. SRI.RAJESH NAMBIAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-07-2015,
ALONG WITH WP(C).NO. 29414/2009, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE RELEVANT PAGES OF THE RC BOOK OF THE
STAGE CARRIAGE BEARING REGISTRATION NO. KL 12/B 2753.
- EXT.P2 COPY OF THE WRITTEN STATEMENT FILED BY THE
RESPONDENTS 1 AND 3 IN OS NO. 10/2006.
- EXT.P3 COPY OF THE ORDER DATED 21.8.2007 IN OS NO. 10/2006 OF
THE MUNSIFF MAGISTRATE'S COURT, S. BATHERY.
- EXT.P4 COPY OF THE APPLICATION DATED 25.9.2007 PREFERRED BY
THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS & ANNEXURES :

- EXT.R3(A) : COPY OF THE DEMAND DRAFT DATED 6.2.2004.
- EXT.R3(B) COPY OF THE LOAN CUM HYPOTHECATION AGREEMENT
NO. 35857 DATED 6.2.2004.
- EXT.R3(C) COPY OF THE POWER OF ATTORNEY DATED 6.2.2004
EXECUTED BY THE PETITIONER IN FAVOUR OF THE 3RD
RESPONDENT.
- EXT.R3(D) COPY OF THE PLAINT IN OS 188/04.
- EXT.R3(E) COPY OF THE AFFIDAVIT AND PETITION FILED BY THE 3RD
RESPONDENT IN OS 188/04.
- EXT.R3(F) COPY OF THE PLAINT IN OS 10/2006.

ANNEXURE R2(a) : COPY OF THE CIRCULAR NO. 22/04 DATED 29.8.2004.

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No. 36331 of 2007 & 29414 of 2009

Dated this the 20th day of July, 2015

J U D G M E N T

Both the writ petitions are filed by the same person.

The petitioner had a permit, which was valid till 21.11.2009 in the route Odappallam-Kalpetta. The petitioner was operating in the route with a stage carriage bearing registration No. KL -12/B 2753. The said vehicle is said to have been taken possession of by the financier on 06.12.2007. Upon which the petitioner approached this Court with W.P(C) No.36331/2007. As early as in 2007, this Court had recorded the submission of the 3rd respondent financier that the vehicle had been taken possession by the 3rd respondent and that the matter has become infructuous. There was also no representation for the petitioner on that date and neither on this date when the matter is taken up for hearing. The writ petition No.36331/2007 would stand dismissed as infructuous.

2. In W.P(C) No.29414/2009, the petitioner seeks that Ext.P1 application for renewal of permit be considered. The petitioner also contends that there is an application for replacement filed at Ext.P3. When, the vehicle which was run in a permit was under finance and the finance was defaulted, the financier would have the right to object to such renewal. Looking through the records of both cases, it is evident that the finance to the vehicle was by Shriram Investments Limited, the 3rd respondent in W.P(C)36331/2007. Though there was a direction to implead the financier in W.P(C) No.29414/2009, the petitioner has thought it fit to implead the additional 3rd respondent alone and not the institution which had advanced the loan to the petitioner, who had also taken possession of the vehicle. In such circumstance, no orders could be passed in W.P(C) No.29414/2009 for reason of necessary parties being not impleaded. No direction to renew the permit or replacement could be granted especially at

WPC.No.36331/2007 & connected cases.

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this distance of time. W.P(C) No.29414/2009 would also stand dismissed.

Both writ petitions are dismissed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge