IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 33841 of 2010 (E)

PETITIONER :

KRISHNAN.V,
VEDITHARAKKAL HOUSE, BEKAL P.O., KANHANGAD.

BY ADV. SRI.M.A.FAYAZ

RESPONDENT :

DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKER'S,
WELFARE FUND, KANNUR-670 003.

BY ADV. SRI.NAVEEN. T, SC,

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 33841 of 2010 (E)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT

P2: COPY OF THE JUDGMENT IN WPC NO. 11507/2008 DT 4/4/2010.

P3: COPY OF THE ORDER DT 15/10/2010 OF THE RESPONDENT.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K.VINOD CHANDRAN, J

W.P.(C).No. 33841 of 2010

Dated 10th February, 2015

JUDGMENT

The above writ petition has been filed for a mandamus, directing the 2nd respondent to accept the welfare fund under the Kerala Motor Transport Workers' Welfare Fund Act, 1985 [for brevity “the Welfare Fund Act”] for the period prospective to the petitioner's purchase of the vehicle and to issue clearance certificate for remittance of motor vehicle tax.

2. The petitioner's contention is that the motor vehicle bearing registration No.KL-13-L-8358 is purchased by him on 17.12.2007. The petitioner wanted to remit welfare fund as also motor vehicle tax, which would not be accepted unless the arrears towards the welfare fund are remitted with the Board. Therefore, the present writ petition for appropriate direction.

3. By the Amendment Act 23/2005, effective from 07.06.2005, Section 8A and sub-section (2) of Section 10 were introduced in the Welfare Fund Act. Section 8A mandated a clearance certificate from the Board for acceptance of motor vehicles tax. Sub-section (2) of Section 10 created a charge on the vehicle for the arrears of tax on the vehicle. The issue of amendment and the liability prior to the amendment were considered in **Ummer v. Joint R.T.O. [2014 (4) KLT 358].** This Court held that if the transfer is effected after the amendment, then necessarily the transferee of the vehicle would be liable to discharge the liability of the erstwhile owner of the vehicle in respect of the previous owner's dues under the Welfare Fund Act to enable payment of motor vehicle tax as also release the encumbrance by way of charge created on the vehicle. The transferee was held

to be entitled to proceed against the erstwhile owner for realization of the amounts paid on his behalf, before the appropriate forum.

4. It is admitted in the writ petition that the vehicle was transferred to the name of the petitioner on 17.12.2007. Even according to the petitioner there are arrears due under the Welfare Fund Act from the previous owner. Since the transfer itself was made after the amendment, the petitioner is not entitled to the relief asked for in the writ petition. The charge on the vehicle subsists even after the transfer.

5. However, if the petitioner approaches the authorities concerned, with a prayer for instalments, within a period of one month from the date of receipt of a copy of this judgment, the petitioner shall be permitted to settle the

amounts due under the Welfare Fund Act, with interest, in six equal monthly instalments; for the purpose of remitting tax in respect of the vehicle and for payment of amounts under the Welfare Fund Act. Needless to say, the petitioner would be entitled to proceed against the previous owner for recovery of the arrears remitted by him, in appropriate proceedings.

The writ petition is dismissed with the above observations. Parties are left to suffer their respective costs.

Sd/-

K.VINOD CHANDRAN
Judge

Mrcs

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