IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 32123 of 2014 (M)

PETITIONER(S):

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 SUBHA ABRAHAM,
SMT.K.R.MONISHA.

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.

3. MR.V.N.K.MENON, HOUSE NO. 34/2313,
VADAKKEDATH HOUSE, MAMANGALAM,
EDAPPALLY, ERNAKULAM - 682 024.

R1 & R2 BY GOVT. PLEADER SRI.R. RANJITH.
R3 BY ADVS. SRI.SHAJI THOMAS PORKKATTIL,
SRI.BINU PAUL,
SRI.T.V.VINU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 32123 of 2014 (M)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE DEED POLL EXECUTED BY THE 3RD RESPONDENT IN FAVOUR OF THE PETITIONER DATED NIL.

EXHIBIT P2: TRUE COPY OF NOTICE NO. A2-1297/2010 ISSUED BY THE 2ND RESPONDENT DATED 15/06/2010.

EXHIBIT P3: TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT DATED 28/09/2010.

EXHIBIT P4: TRUE COPY OF THE MEMO ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 05/02/2014.

EXHIBIT P5: TRUE COPY OF RECOVERY NOTICE NO. A2-1155/14 ISSUED BY THE 2ND RESPONDENT IN FORM NO. 1 DATED 31/07/2014.

EXHIBIT P5(A): TRUE COPY OF RECOVERY NOTICE NO. A2-1155/14 ISSUED BY THE 2ND RESPONDENT IN FORM NO. 10 DATED 31/07/2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 32123 of 2014

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Dated this the 21st day of July, 2015

JUDGMENT

Petitioner is a registered owner of the vehicle bearing No.KL-07/AC-5081. Petitioner has approached this Court challenging revenue recovery proceedings initiated by the respondents to recover the Motor Vehicle Tax due from 01.04.2010 to 31.03.2014.

2. Petitioner's case is that, she had sold the vehicle to the 3rd respondent in the year 2002 and the liability to clear the Motor Vehicle Tax is with the 3rd respondent. It is admitted by the 3rd respondent that they have purchased the vehicle and the vehicle has been dismantled in the year 2009 itself. Petitioner's case is that, she may be permitted to avail One Time Settlement Scheme as per the Circular No.2/2015.

3. In the counter affidavit filed by the State it is stated that registering authority was not informed about neither transfer nor dismantle. Therefore it is contended that the petitioner is liable to pay the tax. It is further submitted that the petitioner is not entitled for One Time Settlement Scheme since the arrears is

from 01.04.2010 only. It is a case of the official respondents that, a payment has been effected by the 3rd respondent on 28.09.2010 for the tax due up to 31.03.2010.

4. Admittedly, petitioner has not paid any amount ever since the vehicle was sold. If State wants to pass liability on the petitioner necessarily any payment has to be reckoned only if same has been paid by the petitioner. If the 3rd party paid the amount towards the tax arrears cannot be put into the account of the petitioner to disentitle her the benefit of one time settlement. If the State wants to acknowledge the ownership of the 3rd respondent necessarily, State cannot proceed against the petitioner. In that view of the matter, any payment effected by the 3rd respondent cannot be reckoned to deprive the petitioner to avail the benefit of One Time Settlement. Therefore this Court is of the opinion that excluding the payment already effected by the 3rd respondent after 31.03.2010, petitioner should be given the benefit of One Time Settlement Scheme treating the tax arrears from 01.01.2010 onwards.

5. In that view of the matter if petitioner makes a request within 3 weeks to avail the benefit of One Time Settlement

Scheme, that facility shall be given to the petitioner. If the petitioner discharges the entire liability under One time Settlement Scheme, the revenue recovery proceedings against the petitioner shall be withdrawn. It is open for the petitioner to recover any payment to be made from the 3rd respondent in accordance with law. Petitioner shall file an affidavit to the effect that, vehicle has been dismantled and based on that no further tax shall be claimed from the petitioner for future period.

This writ petition is disposed of.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE.

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