IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 33432 of 2014 (D)

PETITIONER(S):

A.T.PREMACHANDRAN NAIR, AGED 62 YEARS
S/O.LATE T.K.THANKAPPAN PILLAI, MANAGER
THODIYOOR U.P.S., KALLELIBHAGOM, KARUNAGAPPALLY
KOLLAM DISTRICT, RESIDING AT NERANJANAM
KAIRALI NAGAR - 116, KAVANAD P.O., RAMANKULANGARA
KOLLAM - 691 003.

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S)/RESPONDENTS:-:
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1. **THE TRANSPORT COMMISSIONER,**
   GOVERNMENT OF KERALA, VAZHUTHACAUD
   THIRUVANANTHAPURAM - 14.

2. **THE DEPUTY TRANSPORT COMMISSIONER,**
   SOUTH ZONE, GOVERNMENT OF KERALA, EAST FORT P.O.
   THIRUVANANTHAPURAM, PIN - 695 023.

3. **THE SUB REGIONAL TRANSPORT OFFICER,**
   KARUNAGAPPALLY P.O., KOLLAM, PIN - 690 518.

4. **SRI.LAIJU JOSEPH,**
   S/O.P.K.JOSEPH, PARIYARATHU VEEDU, PANACHIKADU
   KOLLATTU, ALAPPUZHA CHERRY, KOLLAD P.O.
   KOTTAYAM - 686 029 (PRESENT ADDRESS LAIJU JOSEPH
   KARUNA MOBILE MORTUARY AND AMBULANCE SERVICE
   KALAVARA GROUPS, KOLLAD P.O., KOTTAYAM - 686 029).

R4 BY ADV. SRI.SURIN GEORGE IPE
R1-R3 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

lmp

WP(C).No. 33432 of 2014 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. THE TRUE COPY OF R.C. PARTICULARS OF 1993 MODEL TEMPO TRAVELER BEARING REG.NO:KL-5B-3407 OF THE PETITIONER.

EXHIBIT P2. THE TRUE COPY OF THE SALE AGREEMENT OF THE VEHICLE DATED 30.05.2009 EXECUTED BETWEEN THE PETITIONER AND THE 4TH RESPONDENT.

EXHIBIT P3. THE TRUE COPY OF THE DEMAND NOTICE DATED 26.08.2013 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER FOR THE PERIOD 01.10.2008 TO 30.09.2013.

EXHIBIT P4. THE TRUE COPY OF THE ORDER NO:C-3420/SZ/13 DATED 18.03.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT P5. THE TRUE COPY OF THE COMMUNICATION NO:B1/12379/TC/2014 DATED 05.11.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P6. THE TRUE COPY OF THE REPLY DATED 12.11.2014 SENT BY THE PETITIONER TO THE 1ST RESPONDENT.

EXHIBIT P7. THE TRUE COPY OF THE ORDER NO:B1/12379/TC/2014 DATED 22.11.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

lmp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33432 OF 2014 (D)

Dated this the 8th day of January, 2015

J U D G M E N T

The petitioner impugns Exts.P3, P4 and P7 orders issued by respondents 1 to 3, whereby the liability to motor vehicle tax for the period from 1.10.2008 to 30.09.2013 has been fastened on the petitioner. In the writ petition, it is the specific case of the petitioner that while he was the registered owner of the vehicle in question, he had sold the vehicle to the 4th respondent on 30.5.2009 as per Ext.P2 agreement, and, therefore, for the period subsequent to that date, he could not be made liable for the motor vehicle tax in terms of the Kerala Motor Vehicles Taxation Act. In Exts.P3, P4 and P7 orders passed by the authorities under the Motor Vehicles Taxation Act, in proceedings that were pursued by the petitioner under that Act, the consistent finding by the authorities is that the petitioner, notwithstanding his claim of transfer of the vehicle to the 4th respondent, continued to be shown as the registered owner of the vehicle in the files before the authorities under the Motor Vehicles Act. In that view of the matter, the demand of motor vehicle tax against the petitioner for the period in question is sought to be justified on the ground that the proceedings were initiated against the person shown as the registered owner of the vehicle.

2. I have heard Sri.B. Mohan Lal, the learned counsel appearing on behalf of the petitioner, Sri.Sunil George, the learned counsel appearing on behalf of the 4th respondent as also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing on behalf of respondents 1 to 3.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find that insofar as in Exts.P3, P4 and P7 orders passed by respondents 1 to 3, the demand of tax on the petitioner, for the period in question, is sought to be justified on the ground that the petitioner is the person shown as the registered owner of the vehicle in the files before the Motor Vehicle authorities, the said orders cannot be said to be illegal in terms of the Kerala Motor Vehicles Taxation Act. If the petitioner has a case that the vehicle in question had actually been transferred to the 4th respondent, notwithstanding the fact that he continues to be shown as

the registered owner of the vehicle in the files before the Motor Vehicle authorities, then it is for the petitioner to establish the competent forum that the sale of the vehicle had actually taken place and the 4th respondent had become the owner of the vehicle in question. If the petitioner succeeds in establishing this fact before a competent forum, he can proceed against the 4th respondent for realisation of the tax amounts that were paid by him in discharge of the liability of the 4th respondent. This, however, is a matter that has to be pursued by the petitioner after satisfying the tax dues that have been demanded from him by the official respondents, pursuant to Exts.P3, P4 and P7 orders that are impugned in the writ petition. Accordingly, I am not persuaded to interfere with Exts.P3, P4 and P7 orders that are impugned in the writ petition. The writ petition fails, and is accordingly dismissed, but reserving the right of the petitioner to proceed against the 4th respondent, if so advised, for the purposes of realising the tax amounts paid by the petitioner for the period in question, if the petitioner succeeds in establishing before a competent forum that it was the 4th respondent, and not the petitioner, who was legally obliged to pay tax under the Kerala Motor Vehicles Taxation Act. Counsel for the petitioner would submit that inasmuch as the 4th respondent is now denying the transfer of the vehicle from the petitioner to him, he may be permitted to approach the authorities under the Motor Vehicles Act for the purposes of getting the transfer of ownership of the vehicle in the name of the 4th respondent effected in the files before the Registering authorities under the Motor Vehicles Act. If the petitioner approaches the authorities under the Motor Vehicles Act by following the procedure under the said Act, then the competent among the authorities under that Act shall consider the said application and pass appropriate orders on the same after giving notice to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp

The last word "petitioner" occurring in the last sentence of the judgment dated 08/01/2015 in W.P.(C).No.33432/2014 is corrected and substituted as "4th respondent", vide order dated 12/02/2015 in I.A.No.1758/2015.

Sd/-
Registrar (Judicial)