

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 34536 of 2015 (N)

PETITIONER(S):

**P.RAVI, AGED 45 YEARS,
S/O.PARAMESWARAN, RAMA GOUNDA,
RAMUGOWDER STREET, KAMAYAKOUDANPATTY,
PATTI, THENI, TAMIL NADU - 625 521.**

**BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA
SRI.S.KANNAN**

RESPONDENT(S):

- 1. THE INTELLIGENCE INSPECTOR,
SQUAD NO.VII, COMMERCIAL TAXES,
(CAMP AT PARASALA), OFFICE OF THE
INTELLIGENCE OFFICER, SQUAD NO. VII,
THIRUVANANTHAPURAM.**
- 2. THE OFFICER IN CHARGE,
STATION DEVELOPMENT CELL,
STATION HEAD QUARTERS, (MILITARY STATION
HEAD QUARTERS), THIRUVANANTHAPURAM.**
- 3. K.UNNIKRISHNAN, S/O.KRISHNAN KUTTY,
'THIRUVATHIRA', PERUMKADAVILA,
THIRUVANANTHAPURAM DISTRICT.**
- 4. THE INTELLIGENCE OFFICER,
SQUAD NO.VII, COMMERCIAL TAXES,
OFFICE OF THE INTELLIGENCE OFFICER,
SQUAD NO.VII, THIRUVANANTHAPURAM.**

R1, R2 & R4 BY GOVERNMENT PLEADER SMT.LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: A TRUE COPY OF THE INVOICE NO.910901425 DTD.26.8.2009.

EXT.P2: A TRUE COPY OF THE AGREEMENT DTD.20.10.2015 BETWEEN THE
PETITIONER AND THE 3RD RESPONDENT.

EXT.P3: A TRUE COPY OF THE DETENTION NOTICE NO.OR.416/2015-16
DTD.30.10.2015 ISSUED BY THE 1ST RESPONDENT.

EXT.P4: A TRUE COPY OF THE OBJECTION DTD.7.11.2015 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P5: A TRUE COPY OF THE COMMUNICATION DTD.7.11.2015 ISSUED BY THE
3RD RESPONDENT.

EXT.P6: A TRUE COPY OF THE WORK ORDER DTD.10.9.2015 ISSUED BY THE
2ND RESPONDENT TO THE 3RD RESPONDENT IN RESPECT OF THE WORK
TO BE UNDER TAKEN BY THE 3RD RESPONDENT.

EXT.P7: A TRUE COPY OF THE POLICY SCHEDULE ISSUED BY L&T INSURANCE
BEARING NO.913103002425470100.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 34536 of 2015

Dated this the 16th day of November, 2015

JUDGMENT

The petitioner is aggrieved by Ext.P3 notice issued to him detaining a used Excavator that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondent that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P3 notice, it is seen that the objection of the respondent is essentially that the goods were being transported without any documents to prove the genuineness of the transportation. Counsel for the petitioner would submit that the item in question was being transported for the purposes of a works contract and the agreed hire charges in respect of the vehicle was

Rs.1,50,000/- for a period of twenty days. Counsel for the petitioner would further submit that the tax due on the hire charges would only be in a sum of Rs.7,500/- at the rate of 5% stipulated in the KVAT Act. Taking note of the said submission of counsel for the petitioner, I direct the 1st respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his paying an amount of Rs.15,000/- (Rupees fifteen thousand only) to the 1st respondent.

(ii) Taking note of the request of counsel for the petitioner, I make it clear that, on payment of the said amount of Rs.15,000/- the petitioner shall also be permitted to take the goods back to Tamil Nadu and the respondents shall ensure that on release of the goods, the goods are taken beyond the border towards Tamil Nadu. The respondents shall be free to appropriate the said amount of Rs.15,000/- towards penalty due pursuant to the detention, and the submission of counsel for the petitioner that the said amount may be adjusted towards the penalty due from the petitioner, is recorded.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE