IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

WP(C).No. 35369 of 2015 (U)

PETITIONER :

SHABEER ALI,
S/O MUHAMMED ALI, 7/218A, PALLIKKADAN HOUSE,
ANAKKAYAM P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.K.RAKESH

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR,
   MALAPPURAM, PIN- 676 505

2. THE DEPUTY TAHSILDAR (R.R),
   TALUK OFFICE, ERNAD, MALAPPURAM DISTRICT- 676 121

3. THE REGIONAL TRANSPORT OFFICER,
   REGIONAL TRANSPORT OFFICE,
   MALAPPURAM, PIN- 676 505

4. THE MANAGER,
   CHOLAMANDALAM INVESTMENT AND FINANCE COMPANY LTD.,
   2ND FLOOR, MARANAT CHAMBERS, MANJERI,
   MALAPPURAM DISTRICT, PIN-676 121

R1 TO R3 BY GOVERNMENT PLEADER SRI.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 35369 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:	TRUE COPY OF THE SURRENDER LETTER DT. 27/8/10 ISSUED BY THE 4TH RESPONDENT
EXT.P2:	TRUE COPY OF THE LETTER DT. 20/8/14 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER
EXT.P3:	TRUE COPY OF THE PAYMENT RECEIPT ISSUED BY THE 4TH RESPONDENT, DT. 20/8/14
EXT.P4:	TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT UNDER SECTIONS 34 AND 7 OF THE KERLA REVENUE RECOVERY ACT DT. 15/10/15
EXT.P5:	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE VILLAGE OFFICER, ANAKKAYAM DT. 11/11/15
EXT.P6:	TRUE COPY OF THE INTIMATION GIVEN TO THE REGISTERING AUTHORITY BY THE PETITIONER DATED, 20/11/2015
EXT.P7:	TRUE COPY OF THE RECEIPT ISSUED BY THE REGISTERING AUTHORITY DATED, 20/11/2015.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.35369 of 2015

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Dated this the 27th day of November 2015

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P4 demand notice issued by the 3rd respondent, under the Kerala Revenue Recovery Act, seeking to recover arrears of motor vehicle tax due in respect of vehicle bearing registration No.KL-14J/4911. The case of the petitioner in the writ petition is that he had surrendered the vehicle to the financier by Ext.P1 letter dated 27.08.2010 and therefore, for the period subsequent to that date, it is the financier who would be liable to motor vehicle tax and not the petitioner.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that although it is the case of the petitioner that he had surrendered the vehicle to the financier on 27.08.2010, the liability of the petitioner, in his capacity as registered owner of the vehicle on the files of the motor

vehicle authorities, continues to subsist in terms of Section 9 of the Kerala Motor Vehicle Taxation Act. I therefore cannot accept the contention of the petitioner that he would not be liable to discharge the liability that is now fastened on him by Ext.P4 demand notice. I take note of the fact however that by Ext.P6 communication addressed to the 3rd respondent, the petitioner has intimated the 3rd respondent of the fact of surrender of the vehicle. The petitioner therefore would be justified in contending that for the period subsequent to the date of intimation in Ext.P6, he should not be fastened with the liability in respect of the vehicle. I, therefore, dispose the writ petition with the following directions:-

i) If the petitioner discharges the liability indicated in Ext.P4 notice, to the respondents in six equal successive monthly instalments, commencing from 15.12.2015, then further proceedings for recovery against the petitioner shall be kept in abeyance.

ii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondents will be free to continue the recovery proceedings against him from the stage at which they presently stand.

Iii) It is made clear that the liability of the petitioner to motor vehicle tax in respect of the vehicle bearing registration No.KL-14J/4911, shall cease with effect from the date in Ext.P7 acknowledgement, issued to the petitioner by the 3rd respondent. The 3rd respondent would have to ensure that future demand of tax in respect of the vehicle would be made only on the person, in whose custody the vehicle currently is.

iv) Nothing in this judgment shall stand in the way of the petitioner proceeding against the 4th respondent, in accordance with law, for recovery of amounts paid by the petitioner pursuant to this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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