

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 39256 of 2015 (F)

PETITIONER(S) :

- 1. GILSE JOSEPH, AGED 40 YEARS,
SON OF JOSEPH, RESIDING AT KANDATHIL HOUSE,
EDAKADUTHY (P.O), MUKKOOTTUTHARA, ERUMELI SOUTH VILLAGE,
KANJIRAPPALLY TALUK, KOTTAYAM DISTRICT (OWNER OF
EXCAVATOR HITACHI).**
- 2. HARIS, AGED 39 YEARS,
SON OF ABOOBACKER, RESIDING AT KANJIRATHUM PARAMBIL,
EAST VELIYATHUNADU, ALUVA WEST VILLAGE, ALUVA TALUK,
ERNAKULAM DISTRICT (OWNER OF LORRY BEARING REGISTRATION
NO.KL-42-J-822).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. INTELLIGENCE INSPECTOR,
SQUAD NO.IV, KOLLAM AT PUNALUR- 691 332.**
- 2. THE SUB INSPECTOR OF POLICE,
CHADAYAMANGALAM POLICE STATION, KOLLAM DISTRICT,
PIN- 691 332.**

BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 39256 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE NOTICE UNDER SECTION 47(2) OF
THE KERALA VALUE ADDED TAX ACT 2003 ISSUED BY THE FIRST
RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE INVOICE DATED 31.03.2008 ISSUED BY
TELCON, AUTHORIZED DEALER OF EXCAVATOR ADDRESSED TO
MR.KUNJUNNI.**

**EXHIBIT P3: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE LORRY
OF THE SECOND PETITIONER DATED 21.03.2014.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.39256 of 2015
.....
Dated this the 22nd day of December, 2015

J U D G M E N T

A Hitachi Excavator that was being transported at the instance of the petitioners was detained by the respondents. Ext.P1 is the detention notice. In the writ petition, the petitioners are aggrieved by the insistence of the respondents that the petitioners 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 for the petitioners and 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 dispose the writ petition with the following directions:

(i) On a perusal of Ext.P1 detention notice, it is seen that the objection of the respondents is essentially that the transportation of the goods was

not seen accompanied by any valid documents as contemplated under the Kerala Value Added Tax Act. The petitioners are not registered dealers in the State. Under the said circumstances, I direct the 1st respondent to release the goods and the vehicle to the petitioner, on the 1st petitioner paying Rs.1,50,000/- to the 1st respondent and furnishing a simple bond without surety for the balance amount demanded in Ext.P1 before the 1st respondent, and also on the petitioners producing proof of ownership of the vehicle before the 2nd respondent.

(iii) The 1st respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iv) 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

W.P.(C). No. 39256 of 2015