

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

WEDNESDAY, THE 13TH DAY OF JULY 2022 / 22ND ASHADHA, 1944

WP(C) NO. 16441 OF 2021

PETITIONER:

K.M.MOHAMMED KUTTY,
AGED 80 YEARS,
S/O LATE K.K.MAKKAR, SHINEST HOUSE,
VELOOR VILLAGE, KOTTAYAM TALUK, KOTTAYAM DISTRICT

BY ADVS.
S.SHANAVAS KHAN
S.INDU
P.A.HANSALAH MOHAMMED

RESPONDENTS:

- 1 THE STATE TRANSPORT COMMISSIONER,
MOTOR VEHICLES DEPARTMENT, 2ND FLOOR, TRANS TOWER,
C.V.RAMAN PILLAI ROAD, DPI, VAZHUTHACAUD,
THIRUVANANTHAPURAM-695 014.
- 2 THE REGIONAL TRANSPORT OFFICER,
NEAR TOWN HALL, KANHANGAD, KASARGOD-671 315.
- 3 SHAJIMON H,
AGED 46 YEARS,
S/O P.K.HAKKIM, KARIMATTAM HOUSE, PANAMPALAM MURI,
ARPOOKKARA VILLAGE, KOTTAYAM DISTRICT-686 008.
- 4 ANWAR SADATH,
S/O O.T.MOHAMMED KUNHI, PUZHAKKARA HOUSE,
BHEEMANADI OTTAPADAVU, CHEEMENI, KASARAGOD-671 313.

BY ADVS.
SANTHOSH PETER
G.HARIHARAN
O.D.SIVADAS
P.N.ANOOP
M.S.SANDEEP SUDHAKARAN
PRAVEEN.H.

OTHER PRESENT:

SRI JIMMY GEORGE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 13.07.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition has been filed with the vernacular documents and with the following note by an advocate 'English translation will be produced as and when required by this Court, signed, Advocate' There is no provision in the High Court Rules empowering the advocate in such a note in the writ petition. The language of the High Court as per the Constitution of India is English and as well as in the High Court Rules. This Court has been sitting on the writ side almost two and a half years but the practice of filing the translation of documents has not been followed and in almost 90% of the cases, documents are filed in local/vernacular language. This writ petition should not have been entertained by the Registry until and unless there was a miscellaneous application filed on behalf of the advocate seeking exemption giving special and attenuating circumstances. Registry is prohibited from entertaining such writ petition with a note in the absence of any provision in the High Court Rules and Constitution of

India. This order is directed to be communicated to the Registrar (Judicial) for immediate compliance.

2. With the assistance of the 3rd respondent a vehicle having national permit was located and purchased from 4th respondent by an agreement dated 14.08.2020 for a total consideration of 24 lakhs out of which alleged to have paid 10 lakhs, though no receipt is attached. Remaining amount was to be paid in instalments. The possession of the vehicle alleged to have been handed over to the petitioner and original agreement was also kept by the petitioner whereas photocopy thereof was handed to the 4th respondent. Only Form Nos.29 and 30 were also executed by the 4th respondent which was sent to 2nd respondent i.e., Regional Transport Officer for affecting the transfer of the ownership.

3. Learned counsel appearing on behalf of the petitioner submitted that after the purchase, 3rd respondent apprised the petitioner the original sale agreement is required for getting the contract amount

from KRS Parcel Service. On the basis of the assurance, petitioner handed over the original agreement to 3rd respondent. Moreover on 24.11.2020 two vehicles belong to the petitioner (without giving any numbers) were handed over to the 3rd respondent's transporting company on lease in lieu thereof, third respondent agreed to give 85% of the profit to the petitioner and 15% to be retained by him. When 3rd respondent refused to pay the amount petitioner submitted a complaint to the Director General of Police, Thiruvananthapuram and also to the District Superintendent of Police and when no action was taken, preferred Writ Petition (C) No.1098/2021, pursuant to which Crime No. 994 of 2021 was registered against the third respondent for the offence punishable under Section 420 of the IPC Ext.P3. During the investigation of the Crime 3rd respondent produced the sale agreement between him and the 4th respondent before the Investigating Officer where the 4th respondent had agreed to sell the vehicle bearing registration number to

him. It is further contended that 4th respondent is attempting to transfer the ownership of the vehicle bearing Registration No.KL-60 P 3580 in the name of the 3rd respondent on the strength of concocted agreement. Has submitted a representation in this regard before the 1st respondent and therefore sought following indulgence:

- I) issue a writ of mandamus or any other writ, order or direction directing the 1st respondent to take action on Ext.P4 with immediate effect.
- II) Issue a writ of mandamus or any other writ, order or direction directing the second respondent to refrain from effecting transfer of ownership of the vehicle bearing Reg.No.KL 60 P 3580 in favour of 3rd respondent in the official records and
- III) pass such other orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case.

4. Learned counsel for the respondent No.4 Mr.Hariharan submits that the possession of the vehicle is with the 4th respondent and even the registration of the vehicle is also in the name of the 4th respondent. There is a private dispute between the petitioner and third respondent and therefore petitioner is liable to be

dismissed with exemplary costs.

5. I have heard learned counsel for the parties and appraised the paper books.

6. The documents placed on record reveals that the registered owner of the vehicle bearing No.KL 60 P 3580 is the 4th respondent. Some agreement is being introduced by the petitioner to have been entered into with the 4th respondent and further leasing out to the 3rd respondent. If at all there is a breach of the same, petitioner had an independent civil remedy to be availed of for settling the private dispute, cannot under the garb of threat of transferring the vehicle in favour of some other person present writ petition under Article 226 of the Constitution of India. This writ petition is a gross abuse of the process of the Court as is not maintainable, dismissed with cost of Rs.10,000/- to be paid to the Kerala High Court Bar Association.

Sd/-

**AMIT RAWAL
JUDGE**

APPENDIX OF WP(C) 16441/2021

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE AGREEMENT DATED 24.11.2020 EXECUTED BY PETITIONER WITH THE 3RD RESPONDENT
- Exhibit P2 TRUE COPY OF THE COMPLAINT DATED 19.3.2021 PREFERRED BY PETITIONER BEFORE THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM
- Exhibit P3 TRUE COPY OF THE FIR IN CRIME NO 994/2021 OF KOTTAYAM WEST POLICE STATION
- Exhibit P4 TRUE COPY OF THE REPRESENTATION DATED 3.8.2021 SUBMITTED BEFORE 1ST RESPONDENT
- Exhibit P5 TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE DISPATCH OF EXT P4 TO FIRST RESPONDENT
- Exhibit P5(A) TRUE COPY OF THE POSTAL RECEIPT EVIDENCING THE DISPATCH OF EXT P4 TO SECOND RESPONDENT
- Exhibit P6 TRUE COPY OF THE PRINT OUT EVIDENCING THE DISPATCH OF EXT P4 BY MAIL ON 5.8.2021 TO THE FIRST RESPONDENT
- Exhibit P7 TRUE COPY OF THE PRINT OUT EVIDENCING THE DISPATCH OF EXT P4 BY MAIL ON 5.8.2021 TO THE SECOND RESPONDENT
- Exhibit P8 TRUE COPY OF THE PRINT OUT TAKEN FROM THE WEB SITE OF THE MOTOR VEHICLES DEPARTMENT DATED NIL

RESPONDENTS EXHIBITS

Exhibit R3(a) TRUE COPY OF THE DEATH CERTIFICATE
DATED 23.02.2022 ISSUED BY THE
REGISTRAR OF BIRTHS & DEATHS ETTUMANUR
MUNICIPALITY EVIDENCING THE DEATH OF
SHAJIMON H. viz., THE HUSBAND OF THE
PETITIOENR