
(2014) 10 KL CK 0137
In the High Court Of Kerala
Case No : W.P. (C). No. 21427 of 2013 (C)

Abdul Nazer

APPELLANT

Vs

The Deputy Transport Commissioner

RESPONDENT

Date of Decision : 27-10-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 2

Citation : (2014) 10 KL CK 0137

Hon'ble Judges : K. Vinod Chandran, J

Bench : Single Bench

Advocate : K. Vidyasagar, Advocate for the Appellant; Jikku Joseph, Govt. Pleader, Advocate for the Respondent

Judgement

K. Vinod Chandran, J.—The petitioner is the owner of a Mahindra Bolero Camper, which was originally registered as a Light Motor Vehicle - Goods Carriage. The petitioner contends that he does not intend to use the vehicle as a Goods Carriage transport vehicle and he purchased the same for the purpose of using it for his personal use as a passenger vehicle. While granting registration in the year 2010, the Registering Authority has described the vehicle as "LMV GV" and the petitioner has been using the said vehicle as such. Subsequently in the year 2013, the petitioner thought it fit to get the class of vehicle altered as private Light Motor Vehicle - Motor Car. The petitioner contends that the issue is no longer res integra in view of the authoritative pronouncement of this Court in Cheriyan v. Transport Commissioner (2009 (2) KLT 583) and seeks for a direction to the 2nd respondent to re-classify the petitioner's vehicle as Non-Transport vehicle.

2. In Cheriyan's case (supra) this Court had declared that with respect to vehicles which are constructed and adapted for carriage of goods and carriage of passengers, the primary aspect to be considered is the use to which it is put. It was also declared that if the vehicle in question is a Light Motor Vehicle, then the registration ought to be granted in that category and not as a goods carriage, if

it is not intended to be used as a goods carriage. It was also clarified that if at all the vehicle was used other than for the purpose for which it was registered, then it was open to the authorities to re-classify the vehicle as a Transport Vehicle.

3. However, in the present case, the petitioner proclaims that he intends to use the vehicle for his private use. But while granting registration in the year 2010, the Registering Authority has described the vehicle as "LMV GV" and the petitioner conceded to the same without demur. On the request made, in the year 2013, by the owner of the vehicle to alter the class of vehicle, the Registering Authority found, at Exhibit P2, that as per the prototype approval, the class of the vehicle was endorsed as "LMV Goods Carriage" and, accordingly rejected the request. The appeal filed was also rejected by Exhibit P5.

4. In the above circumstance, the definition of "goods carriage" and "transport vehicle" in sub-sections (14) and (47) of Section 2 of the Motor Vehicles Act, 1988 assumes significance.

"(14) "Goods carriage" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods".

"(47) "Transport vehicle" means a public service vehicle, a goods carriage, an education institution bus or a private service vehicle".

Going by the above definitions, a goods carriage definitely is a transport vehicle. The vehicle need not be one adapted for use solely for the carriage of goods to come within the definition of a "goods carriage". Any motor vehicle which is not solely adapted for the carriage of goods, when used for the carriage of goods, would come under the definition of "goods carriage". The petitioner had admittedly registered the vehicle as a "goods carriage", since there was provision in the vehicle for carriage of goods. The attempt now to change the registration to that of a Non-Transport Vehicle is only to save tax and is an after-thought based on the judgment of this Court.

5. Having gone through the orders at Exhibits P2 and P5 as also the decision in Cheriyan's case (supra), this Court is not satisfied that the petitioner is entitled to get the vehicle classified as a Non-Transport Light Motor Vehicle. The Registering Authority found, in Exhibit P2, that as per the prototype approval, the class of the vehicle was endorsed as "LMV Goods Carriage", which finding was affirmed in Exhibit P5. The writ petition, hence, is dismissed. No costs.