(2014) 12 KL CK 0110

In the High Court Of Kerala

Case No : WP(C). No. 6423 of 2006 (M)

B. Krishna Kumar — APPELLANT

Vs

The Joint Regional Transport Officer — RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Citation : (2014) 12 KL CK 0110

Hon'ble Judges : A.K. Jayasankaran Nambiar, J

Bench : Single Bench

Advocate : K.V. Gopinathan Nair, Advocate for the Appellant; Lilly K.T., Government Pleader, Advocate for the Respondent

Judgement

A.K. Jayasankaran Nambiar, J.—The petitioner is the owner of a goods vehicle bearing registration No. KL-03/A 3532. It is his case that the vehicle was purchased under a hire purchase agreement and pursuant to non-payment, the financier repossessed the vehicle on 1.10.2000. By Ext. P2 communication dated 24.11.2000, the petitioner states that he intimated the Regional Transport Officer of the fact of repossession of the vehicle by the financier and it is stated that he also surrendered the registration certificate and the permit of the vehicle. This fact is disputed by the learned Government Pleader appearing on behalf of the respondents. At any rate, the petitioner would state that insofar as there was no response from the financier, Ext. P3 notice demanding motor vehicle tax for the period from 1.7.2000 to 31.12.2003 was served on him. Aggrieved by the said demand made on the petitioner he preferred an appeal before the 2nd respondent which came to be rejected. A further revision preferred by the petitioner before the 3rd respondent was also rejected by Ext. P8 order. Ext. P8 order is impugned in the writ petition.

2. Although no counter affidavit is seen filed by the respondents, the learned Government Pleader appearing on behalf of the respondents would contend that contrary to what is stated by the petitioner in the writ petition, the petitioner had not surrendered the registration certificate of the vehicle or the permit thereof.

3. I have heard Sri. K.V. Gopinathan Nair, the learned counsel appearing on behalf of the petitioner as also Smt. Lilly K.T., the learned Government Pleader appearing on behalf of the respondents.

4. On a consideration of the facts and circumstances of the case as also the submissions made across the Bar, I find that this is a case where there was admittedly no compliance with the statutory procedure under the Kerala Motor Vehicles Act, read with the Motor Vehicle Rules, for the purposes of ensuring that the transfer of the ownership of the vehicle was recorded in the files before the Motor Vehicle Authority. The petitioner, however, has a specific case that, along with Ext. P2 letter that was sent to the Regional Transport Authority, he had surrendered the registration certificate as well as the permit in respect of the vehicle. The receipt of this letter has not been denied by the respondents till date. Although, in Exts.P5 appellate order, and Ext. P8 order in revision, the respondents observe, based on the stand taken by the Regional Transport Officer, that the registration certificate and permit in respect of the vehicle were not actually surrendered by the petitioner, I note that in Ext. P6 revision petition filed by the petitioner before the 3rd respondent, the petitioner has specifically averred as follows in ground ''h'':

"h) The finding of the 2nd respondent relying on the statement of the Regional Transport Officer, Ernakulam regarding the surrender of registration certificate and permit is highly arbitrary, illegal and unsustainable. The 2nd respondent merely accepting the version of the first respondent without any basis and substance. The version of the Regional Transport Officer, Ernakulam that neither registration certificate nor permit was surrendered is most incorrect, illegal and unsustainable. The respondents has no case that he has not received Ext. P1 in which it has been specifically mentioned that he is surrendering herewith the registration certificate and permit for cancellation. Copy of the letter was also addressed to the finance company. If there was no permit and registration certificate along with that letter necessarily a communication will be issued to the petitioner that the letter does not accompanying the registration certificate or permit. It exactly postulates that the petitioner has already returned the registration certificate and permit and it was the duty of the R.T.O., Ernakulam to cancel the same deleting from the file. Therefore the conclusion made by the 2nd respondent is absolutely illegal and unsustainable."

This specific contention of the petitioner has not been considered by the 3rd respondent while passing Ext. P8 order, by which the revision petition was dismissed on the ground that the petitioner had not produced reliable proof to substantiate his contention. In my view, the 3rd respondent ought to have caused an enquiry to be done in the matter so as to ascertain whether the registration certificate and permit in respect of the vehicle had actually been surrendered and were available with the respondents in the files relating to the said motor vehicle. If, as a matter of fact, the petitioner had surrendered the registration certificate and permit pertaining to the vehicle before the registering authority, then it is apparent that, notwithstanding the non-compliance by the petitioner with the statutory formality of intimating the registering authority of the transfer of the vehicle, he would have surrendered the registration certificate of the vehicle and thereby ceased to be the registered owner of the vehicle in the files of the registering authority. In that latter event, he could not have been proceeded against for recovery of motor vehicle tax dues for the period subsequent to the date of surrender of the registration certificate. Thus, I am of the view that the matter requires reconsideration at the hands of the 3rd respondent. To enable the 3rd respondent to reconsider the matter, I quash Ext. P8 order and direct the 3rd respondent to pass fresh orders in the matter, after conducting an enquiry with the Regional Transport Officer at Ernakulam, and after hearing the petitioner in the matter, within a period of three months from the date of receipt of a copy of this judgment. The order to be passed by the 3rd respondent shall advert to the contentions of the petitioner and shall also be a reasoned one.

