

(2001) 02 KL CK 0073
In the High Court Of Kerala
Case No : W.A. No. 204 of 2011

Joint R.T.O.

APPELLANT

Vs

P.K. Sathiapalan

RESPONDENT

Date of Decision : 17-02-2001

Acts Referred:

Kerala Motor Vehicles Rules, 1989 — Rule 95, 95(1), 95(10), 95(11), 95(2)
Motor Vehicles Act, 1988 — Section 39, 47

Citation : (2011) 2 ILR (Ker) 42

Hon'ble Judges : Jasti Chelameswar, J;Antony Dominic, J

Bench : Division Bench

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

Final Decision : Allowed

Judgement

Antony Dominic, J.—The Respondent in W.P.(C) No. 35635 of 2010 has filed this writ appeal aggrieved by the judgment of the learned Single Judge dated 21-12-2010.

2. The writ petition was filed by the Respondent herein. According to the Respondent, by Ext.P-1 sale certificate, he purchased a Maruti Suzuki vehicle and made Ext.P-3 application under Rule 95 of the Kerala Motor Vehicles Rules, (hereinafter referred to as "Rules"), for reservation of the fancy registration number, KL/56C-5656. The number was not allotted by the Appellant on the ground that there were two more Applicants and that, therefore, auction in terms of Rule 95(4) of the Rules had to be conducted.

3. According to the Respondent, the other two Applicants were ineligible to apply under Rule 95 of the Rules for the reason that they were not owners of vehicles and they were not even proposed purchasers of vehicles. On that premise he made a representation which was not responded by the Appellant. It was at that stage he filed the writ petition, praying for a writ of mandamus directing the Appellant herein to allot the registration number KL/56C-5656 to the Respondent

for his vehicle covered by Ext.P-1 sale certificate.

4. The Appellant filed a statement in the writ petition explaining the fact that on the date when the Respondent filed the application, two more applications were received and that since there were three valid applications for the fancy number in question, the Appellant had to conduct auction as per Rule 95(4) of the Rules. On this basis, the Appellant justified its action in not allotting the number to the Respondent.

5. The learned Judge who heard the writ petition held that in the absence of any material to show that in furtherance of one's desire, the Applicant had taken concrete steps for purchase of the vehicle or offered to purchase the vehicle, the Applicant cannot be termed to be a proposed purchaser as contemplated in the Rule and that at best, such a person can be termed to be only an intending purchaser. According to the learned Judge, on the date of application for reservation of fancy number, the Applicant should either be an owner or a proposed purchaser, in the sense that some concrete steps should have been taken for purchase of the vehicle. On this reasoning, holding that the other two Applicants had not taken any concrete steps for purchase of the vehicle in relation to which the application was made, the learned Judge held that the other two Applicants cannot be treated as proposed purchasers, and be permitted to participate in the auction held in terms of Rule 95(4) of the Rules. Proceeding further, the learned Judge directed that the Appellant shall consider the entitlement of the Applicants for reservation of fancy number in terms of the aforesaid findings in the judgment. It is aggrieved by the said judgment that the present writ appeal has been filed.

6. We heard Smt. K. Meera the learned Senior Government Pleader on behalf of the Appellant and also Sri K.V. Gopinathan Nair, who entered appearance on behalf of the Respondent.

7. While the learned Government Pleader contended that the other two Applicants satisfied the requirements of the Rule to be the proposed purchasers, the learned Counsel for the Respondent contended that in the absence of the other two Applicants possessing vehicles or having taken any concrete steps for purchase of the vehicle, did not satisfy the requirements to be the proposed purchasers.

8. In our view, the correctness or otherwise of the view taken by the learned Judge depends upon the interpretation to be placed on Rule 95 of the Rules which is extracted below for easy reference.

95. Reservation of fancy registration number.-(1) Reservation of fancy registration number may be made for the registration of a new motor vehicle u/s 39 of the Act or the assignment of a fresh registration mark u/s 47 of the Act, on application made by the proposed purchaser or owner of the vehicle, as the case may be.

(2) The Transport Commissioner may notify the fancy numbers to be allotted by advance reservation under Sub-rule (1).

(3) Any number other than those notified under Sub-rule (2) may also be reserved under sub-rule (1) if any person so applies.

(4) An application under sub-rule (1) shall be accompanied by a fee of rupees two thousand. If more applications than one are received on the same day for a particular registration number, the number shall be allotted to the highest bidder in an auction to be conducted in the manner laid down by the Transport Commissioner.

(5) Reservation of a particular registration number under Sub-rule (1) shall be made within the range of 250 numbers immediately following the last number registered in serial order.

(6) The Registering Authority shall notify for the information the Applicants the date, time and place of the auction.

(7) The highest bidder shall pay the bid amount less the fee for reservation already paid immediately after confirmation of the auction in his favour.

(8) The application fee paid by the unsuccessful Applicants shall be refunded.

(9) In case the highest bidder fails to pay the bid amount as provided in Sub-rule (7), the number shall not be allotted to him and the application fee paid by him shall also be forfeited and the number shall be allotted to the next highest bidder from among the remaining bidders who pays the bid amount as provided in the said sub-rule.

(10) If, for any reason, the vehicle for which a particular number has been reserved is not produced for registration within a period of three months from the date of reservation of the number, such reservation shall cease to have effect and the reservation fee or the bid amount, as the case may be, paid by the person in whose favour the number is reserved shall be forfeited. Such numbers and the fancy numbers notified by the Transport Commissioner under sub-rule (2) in respect of which no application has been received shall be allotted serially under the normal procedure immediately after all the numbers in the current series are exhausted.

(11) The registration number reserved as aforesaid shall not be transferable except with the vehicle to which the number is assigned.

9. A reading of Rule 95 shows that a proposed purchaser or an owner of a vehicle is entitled to make an application for reservation of fancy registration number by remitting the fee as provided in Rule 95(4) which also provides for auction in case more than one application is received. Rule 95(10) states that if the vehicle for which a particular number has been reserved is not produced for registration within a period of three months from the date of reservation of the number, that reservation will get cancelled. Similarly, Rule 95(11) states that the registration

number reserved shall not be transferable except with the vehicle to which the number is assigned. In Ground E of the appeal memorandum, the Appellant has stated that the application in terms of Rule 95 should contain the name and address of the Applicant, desired reservation number and the details of vehicle purchased/re-assigned/proposed to be purchased.

10. From the above requirements of Rule 95 and also the particulars to be furnished in the application for reservation of registration number, it is discernible that the Applicant should produce the vehicle within a period of three months, either he owned or proposed to be purchased at the time of making the application. From the terms of the Rule and the particulars to be furnished in the application, we do not find that it was the intention of the rule making authority that the Applicant should have taken any concrete step for purchase of the vehicle to be eligible to apply for reservation of the number. Therefore, if an Applicant proposes to purchase a vehicle and has furnished the details of the vehicle he proposed to purchase, he satisfies the requirement of Rule 95 to make an application for reservation of fancy number in his favour. If that be the purport of the Rule, it cannot be said that the other two Applicants who too had submitted their applications with the details of the vehicles they proposed to purchase, were ineligible to apply for the same. If that be so, the interpretation placed on the terms of Rule 95 cannot be upheld.

11. Learned Counsel for the Respondent contended that if this interpretation of the Rule is accepted, application for reservation of numbers will be made without taking any steps for purchasing vehicles. First of all, when the language of the Rule is unambiguous, Court can only give effect to the language used by the Rule making authority. Secondly, the possibility of misusing the Rule will not justify an interpretation adding or modifying the Rule. Further, in view of the provisions in Rule 95(10) and (11), sufficient safeguards have been incorporated to prevent any such misuse. Therefore, we do not find any substance in the contention.

12. That apart, we must also notice that in the statement filed by the Appellant/Respondent in the writ petition, details of the other two Applicants were furnished. In spite of it, the Respondent did not implead those two Applicants and, therefore, the writ petition was defective for non-joinder of necessary parties. For this reason itself, the learned Single Judge could not have issued any direction affecting their rights.

In the result, the judgment of the learned Single Judge is set aside and the writ appeal will stand allowed. It is directed that the Appellant shall process the applications received in terms of Rule 95 of the Kerala Motor Vehicles Rules.