(2021) 06 KL CK 0117

In the High Court Of Kerala

Case No : Writ Petition (C) No. 9293 Of 2021

Narayan Kumar APPELLANT

Vs

Regional Transport Officer RESPONDENT

Date of Decision : 09-06-2021

Acts Referred:

Citation : (2021) 06 KL CK 0117

Hon'ble Judges : Gopinath P, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Gopinath P, J

1. Admit. Government Pleader takes notice for the respondents 1 & 3. Issue notice by speed post to 2nd respondent.

2. The learned counsel for the petitioner submits that the petitioner is faced with a demand for payment of motor vehicle tax in respect of a vehicle he

had sold in the year 2014. He submits that in respect of a vehicle which has been taken possession by a financier under a purchase agreement, a

Division Bench of this court in C. Sebastian v. The State of Kerala and others (2010 (1) KHC 950) took the view that after the taking over of

possession by the financier, the liability to pay motor vehicle tax is on the financier and not on the registered owner of the vehicle. He would also

submit that a Division Bench of this court in T.K. Vibhuraj v. E.M. Joseph and others (2007 (1) KLT 853) had taken the view that the liability of the

registered owner of the vehicle and the person in possession of the vehicle is joint and several. Learned counsel for the petitioner also submits that for

the period upto the date of transfer of the vehicle to the 2nd respondent, when demands were raised on him for motor vehicle tax he had promptly paid

the same. However that the present demand notice covers the period for which he had so paid the motor vehicle tax also. The learned counsel also

points out that by order dated 14-10-2019 in State of Kerala v. Sahadevan (2019 (4) KLT 938) the specific question as to whether the liability to pay

motor vehicle tax would cease when the registered owner is not having possession or control of the vehicle has been referred for consideration of a

Division Bench. However the learned Government Pleader vehementally submits that the petitioner has not taken steps to ensure that the transfer of

the vehicle to the 2nd respondent is properly recorded in the manner known to law cannot be heard to contend that he is not liable to pay motor vehicle

tax.

3. The facts of the case show that immediately after the vehicle was sold by the petitioner, the vehicle has been seized by the police on account of

illegal transport of river sand by the 2nd respondent. It is the specific case of the learned counsel for the petitioner that the vehicle is still in the custody

of the police and has not been released after its seizure in 2014. Therefore a question arises as to whether the petitioner is still liable to pay motor

vehicle tax in respect of a vehicle which has been seized by the police in exercise of statutory power under another statute. In order to consider this

issue this writ petition is to be admitted. Accordingly this writ petition is admitted. The petitioner has been served with Ext.P4 demand notice under the

provisions of the Revenue Recovery Act for recovery of the amounts shown therein. There will be an interim stay of Ext.P4 for a period of 2 months.

List after 2 months. Government Pleader will file counter affidavit in the meanwhile.

