
(2010) 12 KL CK 0001

In the High Court Of Kerala

Case No : Writ Petition (C) No. 35635 of 2010

P.K. Sathiapalan

APPELLANT

Vs

The Joint Regional Transport Officer

RESPONDENT

Date of Decision : 21-12-2010

Acts Referred:

Kerala Motor Vehicles Rules, 1989 — Rule 95

Citation : (2011) 1 KLJ 267 : (2011) 1 KLT 505

Hon'ble Judges : C.T. Ravi Kumar, J

Bench : Single Bench

Advocate : K.V. Gopinathan Nair and G. Chitra, for the Appellant; Basant Balaji (Govt. Pleader), for the Respondent

Judgement

C.T. Ravi Kumar, J.—The petitioner who is the owner of a Maruthi Suzuki Car filed this writ petition with a prayer to issue a writ of mandamus commanding the respondent to allot the fancy registration number KL -56/C 5656 to the aforesaid vehicle in terms of the provisions under Rule 95 of the Kerala Motor Vehicles Rules (for short "the Rules"). Admittedly, three persons viz., the petitioner and respondents 2 and 3 herein have applied for the aforesaid fancy registration number. Rule 95(1) of the Rules requires reference in the context of the rival contentions raised in this case and the same reads thus:

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. Essentially, the contention of the petitioner is that respondents 2 and 3 could not be considered as proposed purchasers on the date of the application for fancy registration number by virtue of the above provision. Admittedly, they were not the owners of any vehicle as on the date of application. Therefore, according to the petitioner, they were ineligible to get the aforesaid fancy registration number in terms of the provisions under Rule 95 of the rules. Going by the

provisions under Rule 95 of the Rules, one can apply for reservation of fancy registration number only if he is a proposed purchaser or the owner of a vehicle. The question is when can a person be termed as a "proposed purchaser". Whether a mere intention or desire to purchase a vehicle would bring a person within the expression "proposed purchaser" ?

3. The first respondent has filed a statement in this writ petition. According to the first respondent, in terms of the provisions under Rule 95(10) of the Rules, a period of three months can be allotted to a person for production of a vehicle for registration in case a fancy number is allotted to him. According to the first respondent, there is no statutory requirement to provide the details of the vehicle in the application for reservation of a fancy registration number. In short, according to the first respondent, the mere desire to purchase a vehicle by the applicant would bring him/her under the term "proposed purchaser" and the concerned applicant need only to mention the particular type of vehicle which he intends to purchase in the application to bring himself within the expression "proposed purchaser". The learned counsel appearing for respondents 2 and 3 endorsed the contentions raised on behalf of the first respondent. They would submit that at the time of submission of application for registration of fancy number, they were not owners of vehicle for which they seek the fancy number. In fact, at that point of time, they had only made up their mind to purchase a vehicle and at that point of time, despite the desire to purchase a particular vehicle mentioned in their respective applications, they had not done anything in furtherance of that intention to purchase a vehicle. As noticed herein before, the learned Government Pleader would submit that an intending purchaser would definitely fall within the expression "proposed purchaser" and relied on the provisions under sub-rule 10 of Rule 95 to support the contention. It is to be noted that even going by the said provision, it is evident that the fancy number could be reserved only for a particular vehicle. Now, I may deal with the issue posed for consideration. For answering the issue, one has to look into the meaning of the words "intend" and "propose". The word "intend" means to have in mind to accomplish or do. To "intend" must be understood to mean "contemplate". The word "propose" means to put forward for acceptance or consideration; or "to make an offer". In short, the word "propose" must be understood to mean to lay before another and others which one offers to do or wishes to be done. In the case of "proposal" what we propose is offered or stated to others and in the latter case, the purpose till lies in one's own mind as a decisive act of will. The very word "proposed purchaser" would suggest that there must be a proposal to purchase a vehicle. In the absence of any concrete step taken in furtherance of one's desire to purchase a vehicle or any offer to purchase a vehicle, I am of the view that one cannot be termed as "proposed purchaser". He can at best be called an "intending purchaser" but certainly not as a "proposed purchaser". According to me, any other construction would give room for foul play in the matter of reservation of fancy registration number. In fact, it is to avert such situation that in spite of using the term "intending

purchaser" the term proposed purchaser has been purposefully employed under Rule 95(1). If a person having a desire to purchase a vehicle has placed an order of purchase with a dealer of the vehicle, that very action would definitely bring him within the expression "proposed purchaser". The decisive date with respect to the entitlement of a person for reservation of a fancy registration number is the date of application. In other words, on the date of the application for reservation of fancy registration number, the applicant should either be an owner of the vehicle or the "proposed purchaser". Three months time provided to the allottee to produce the vehicle for registration cannot be a reason to take a contra view. It is common knowledge that even after booking a vehicle, one may have to wait for a while for the actual delivery of the vehicle.

Therefore, in the absence of any materials to show that in furtherance of one's desire, he/she had taken concrete step for the purchase of the vehicle or offered to purchase a vehicle, I am of the view that the said applicant cannot be treated as a "proposed purchaser" as and be permitted to participate in auction for reservation of fancy registration number. As already noticed hereinbefore, in this case, the auction scheduled to be held on 18.12.2010 was adjourned. There are three applicants for the fancy registration No. KL-56/C 5656 viz., the petitioner and respondents 2 and 3. The authority shall consider the entitlement of the applicants viz., the petitioner and respondents 2 and 4 for reservation of the aforesaid fancy registration No. KL-56/C 5656 in terms of the observations made above. Therefore, there will be a direction to the first respondent to conduct auction for reservation of the fancy registration number in terms of the provisions under Rule 95 of the Rules, taking into account the observations made herein. This shall be done expeditiously.

The Writ Petition is disposed of, accordingly.