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(2010) 04 KL CK 0056

High Court Of Kerala

Case No: WP (C) . No. 34427 of 2009 (W)

Anoop Mohanan APPELLANT

Vs

The District Collector RESPONDENT

Date of Decision: April 8, 2010

Citation: (2010) 04 KL CK 0056

Hon'ble Judges: P.N.Ravindran, J

Bench: Single Bench

Advocate: Sunil Jacob Jose, for the Appellant; No Appearance, for the Respondent

Judgement

P.N. Ravindran, J.
The petitioner is the owner of a goods vehicle bearing registration No. KL-7/AD 6457. The said vehicle was seized by the Sub Inspector of Police, Cheruthuruthy Police station on 11.5.2009 on the allegation that it was used to transport river sand without a valid pass. A report was thereupon submitted to the District Collector, Thrissur. The petitioner thereupon moved the District Collector seeking release of his vehicle. On that petition, the District Collector heard the petitioner and passed Ext.P2 order whereby he ordered confiscation of the petitioner''s vehicle finding that it was used to transport river sand without a valid pass. The District Collector however directed that in the event of the petitioner remitting the sum of Rs. 1,55,000/- which was fixed as the value of the vehicle with the assistance of the Joint Regional Transport Officer, Wadakkanchery, in the River Management Fund, the vehicle will be released to him. The petitioner has aggrieved thereby filed this writ petition.

2. A reading of Ext.P2 indicates that the petitioner had conceded before the District Collector that the sand transported in his vehicle was not covered by a valid pass. He however attempted to levy blame on the driver stating that the driver had without his permission taken the vehicle and used it to transport river sand. In the light of the admission made by the petitioner that the vehicle was used to transport river sand without a valid pass, it cannot be said that the District Collector has acted arbitrarily or illegally in ordering confiscation of the vehicle. The provisions of the Kerala Protection of River

Banks and Regulation of Removal of Sand Act, 2001 do not confer on the District Collector the power to condone lapses on the part of drivers/owners of goods vehicles in transporting river sand without a valid pass. The District Collector has thus acted rightly in ordering confiscation of the petitioner''s vehicle.

3. Though the petitioner contends that the value of the vehicle fixed is exorbitant, he has not produced any evidence to show the price he paid for it when he purchased it from the registered owner of the vehicle on 6.5.2009. It is not in dispute that the vehicle is a 2001 model vehicle. The best evidence to show the value of the vehicle at the time of purchase would have been the invoice issued by the dealer who sold the vehicle to the registered owner. The agreement under which the petitioner purchased the said vehicle from the registered owner is also not produced. In such circumstances, I find nothing wrong in the District Collector relying on the value of the vehicle fixed by the Joint Regional Transport Officer, Wadakkanchery.

4. The learned Counsel for the petitioner submitted that the petitioner may be given an opportunity to pay the sum of Rs. 1,55,000/- fixed by the District Collector in Ext.P2 in instalments. He also submitted that pursuant to the interim order passed by this Court on 3.12.2009, the vehicle was released to the petitioner on the petitioner depositing the sum of Rs. 55,000/- and on executing a bond undertaking to pay the balance sum of Rs. 1,00,000/-, in the event of the writ petition being dismissed. The learned Counsel also submitted that the petitioner has also furnished two solvent sureties for the like sum to the satisfaction of the District Collector. In such circumstances, having regard to the fact that the petitioner has already remitted the sum of Rs. 55,000/- for obtaining interim custody of the vehicle pursuant to the interim order passed by this Court on 3.12.2009, even while upholding Ext.P2, I am inclined to grant the petitioner an opportunity to pay the balance sum of Rs. 1,00,000/- in four instalments. I accordingly dispose of this writ petition with the following directions:

The petitioner shall remit the balance sum of Rs. 1,00,000/- payable under Ext.P2, in four monthly instalments of Rs. 25,000/- each. The first instalment of Rs. 25,000/- shall be remitted with the District Collector on or before 30.4.2010. The remaining three instalments shall be remitted on or before 30th of every succeeding English Calender month namely 30th May, 2010, 30th June, 2010 and 30th July of 2010. If any of the above dates happen to be a holiday, payment shall be made on the next working day. In the event of the petitioner remitting the sum of Rs. 1,00,000/- in the manner indicated above, the District Collector shall record full satisfaction of Ext.P2. Thereupon, the bond executed by the petitioner shall stand cancelled and the sureties furnished by the petitioner shall stand discharged. On the other hand, if the petitioner does not remit the balance sum of Rs. 1,00,000/- within the time stipulated above, it will be open to the District Collector to seize the vehicle and to dispose of it in accordance with law for implementing Ext.P2.