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Mohanan Vs. State of Kerala

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Court : Kerala

Decided On : Nov-27-2013

Judge : Honourable Mr.Justice K.Surendra Mohan

Appellant : Mohanan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN WEDNESDAY, THE27H DAY OF NOVEMBER20136TH AGRAHAYANA, 1935 WP(C).No. 23661 of 2013 (G) ---------- PETITIONER: ---------- MOHANAN, AGED30YEARS S/O GANGADHARAN, KIZHAKUMKARA PUTHENVEETTIL HOUSE AGALI, MANNARKADU, PALAKKAD DISTRICT BY ADVS.SRI.SHAIJAN C.GEORGE SMT.S.REKHA KUMARI SRI.M.T.AJITH SMT.SAJITHA GEORGE RESPONDENT(S): ---------- 1. STATEOF KERALA, RERPESENTED BY THE EXCISE COMMISSIONER EXCISE DEPARTMENT, GOVT. SECRETARIAT THIRUVANANTHAPURAM60500 2. THE DEPUTY COMMISSIONER OF EXCISE, EXCISE DIVISION OFFICE, PALAKKAD67910 R1 & 2 BYSR. GOVERNMENT PLEADER SMT.C.K.SHERIN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON2711-2013, THE COURT ON THE SAME DAYDELIVERED THE FOLLOWING: WP(C).No. 23661 of 2013 (G) ---------- APPENDIX PETITIONER(S)' EXHIBITS ---------- EXHIBIT P1 TRUE COPY OF THE CERTIFICATE OF

REGISTRATION OF THE VEHICLE BEARING NO KL10AB 5004 EXHIBIT P2 TRUE COPY OF THE GOODS CARRIAGE PERMIT ISSUED BY THE MOTOR VEHICLES DEPARTMENT EXHIBIT P3 TRUE COPY OF THE

JUDGMENT
IN WPC138802013 DATED2506- 2013 EXHIBIT P4 TRUE COPY OF THE APPLICATION ALONG WITH THE POSTAL RECEIPT DATED1706-2013 EXHIBIT P5 THE

ORDER
DATED1009-2013 ISSUED BY THE2D RESPONDENT EXHIBIT P6: COPY OF APPLICATIONALONG WITH POSTAL RECEIPT DT.5.8.13. RESPONDENT(S)' EXHIBITS: NIL TRUE COPY P.A.TO JUDGE dsn K.SURENDRA MOHAN, J.

---------- W.P.(C)No.23661 Of 2013
---------- DATED THIS THE27h DAY OF NOVEMBER, 2013

JUDGMENT
The petitioner is aggrieved by the action of the respondents in seizing a goods carriage vehicle bearing registration No.KL-10AB-5004 owned by the petitioner, for the reason that the same was was found carrying 23 litres of Indian Made Foreign Liquor. The contention of the petitioner is that, the liquor had been purchased from an FL.1 outlet of the Kerala State Beverages Corporation. The petitioner had sought for interim custody of the vehicle. He had earlier approached this Court by filing W.P.(C)No.13880/2013. As per Exhibit P3 judgment, the same was disposed of directing the petitioner to submit a proper application to the 2nd respondent seeking interim custody of the vehicle. Accordingly, the petitioner submitted Exhibit P4. After considering Exhibit P4, Exhibit P5 order has been passed by the 2nd respondent, directing the petitioner to deposit an amount of Rs.3 lakhs, being the value of the vehicle, as condition for the release thereof to the petitioner.

2. According to Sri Shaijan C.George, who appears for the petitioner, his client is a small time lorry driver, who has purchased the vehicle by availing finance. He is not in a financial position to deposit WPC.No.23661/13 -2- the amount that has

been ordered to be deposited by Exhibit P5. He offers to furnish bank guarantee for the said amount. It is also contended that in view of the fact that no banned article was seized from the vehicle, a lenient view is necessary to be adopted in the matter.

3. I have heard the learned Government Pleader also.

4. Having considered the contentions of the parties, I am satisfied that the conditions stipulated by Exhibit P5 can be modified to the extent of permitting the petitioner to furnish bank guarantee for the amount of Rs.3 lakhs. This Writ Petition is, therefore, disposed of permitting the petitioner to furnish bank guarantee from a Nationalised Bank for the amount of Rs.3 lakhs that has been ordered to be deposited as per Exhibit P5. On production of the bank guarantee, the 2nd respondent shall release the vehicle to the petitioner, provided he has complied with all the other formalities that may be necessary to be complied with. It is clarified that the above direction shall not be treated as a precedent. Sd/- (K.SURENDRA MOHAN) JUDGE. dsn

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