

Sideeq Vs. State of Kerala

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Court : Kerala

Decided On : Jan-29-2014

Judge : Hon'Ble the Chief Justice Dr. Manjula Chellur

Appellant : Sideeq

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HON'BLE THE CHIEF JUSTICE DR. MANJULA CHELLUR & THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE WEDNESDAY, THE 29TH DAY OF JANUARY 2014 9TH MAGHA, 1935 WP(C).No. 30807 of 2013 (A) ----- PETITIONER(S): ----- 1. SIDEEQ. K.I., AGED 40 YEARS, S/O. IBRAHIM KUTTY, KUNNAPPILLY HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.

2. KAREEM K.A., AGED 42 YEARS, S/O. MUHAMMED, KANNANKERY CHIRAYIL HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.

3. AJAS K.A., AGED 27 YEARS, S/O. ALIYAR, KANNANKERY HOUSE, CHITTATHUKARA, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.

4. MUHAMMED P.B., AGED 27 YEARS, S/O. BEERAVU, PARAYANMOOLA HOUSE, CHITTATHUKARA, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.

5. SHAJAHAN K.S., AGED27YEARS, S/O. SULAIMAN, KUNNAPPALLY HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.
6. JALAL. V.M., AGED40YEARS, S/O. MAJEED, VALIYAPARAMBIL HOUSE, CHITTATHUKARA, CSEZ P.O.,KAKKANADU, ERNAKULAM DISTRICT.
7. KHALID T.K., AGED55YEARS, S/O. KHADER, THADATHIL HOUSE, CHITTATHUKARA, CSEZ P.O.,KAKKANADU, ERNAKULAM DISTRICT.
8. SIDEEQ. E.K., AGED40YEARS, S/O. KUTTY, ELAMPATHU HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.
9. MAMAN M.P.@ MAMACHAN, AGED50YEARS, S/O. POULOSE, MOOKKANATTU HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT.
10. HAMSA P.A., AGED55YEARS, S/O. AHAMMED, PUTHANVELIYIL HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT. BY ADV. SRI.JESWIN P.VARGHESE. WP(C).No. 30807 of 2013 (A) RESPONDENT(S):
----- 1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF HOME, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE COMMISSIONER OF POLICE, KOCHI CITY,ERNAKULAM - 682 011.
3. THE SUB INSPECTOR OF POLICE, THRIKKAKARA POLICE STATION ERNAKULAM DISTRICT - 682 030.
4. SIDEEQ. M.P.,AGED50YEARS, S/O. PAREETHUKUTTY, MEKATH HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT-682 037.
5. NISSAR K.M., AGED35YEARS, S/O. MUHAMMED, KOZHIPARAMBIL HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT-682 037.
6. BERANU P.H., AGED57YEARS, S/O. HANEEFA, PARAYANMOOLA HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT-682 037.

7. AJEESH K.A., AGED30YEARS, S/O. AYYAPPAN, KANNANKERY HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT-682 037.

8. SANOOP N.A., AGED29YEARS, S/O. ASHRAFF, NADEKKAL HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT-682 037.

9. NISSAR. K.A., AGED27YEARS, S/O. AHAMMED PILLA, KANNANKERY HOUSE, CSEZ P.O., KAKKANADU, ERNAKULAM DISTRICT-682 037. * ADDL. R10 IMPEADED10 THRIKKAKARA MUNICIPALITY, REPRESENTED BY ITS SECRETARY, KAKKANADU P.O., ERNAKULAM DISTRICT-682 030. * IS IMPEADED AS PER

ORDER

DATED0201/2014 IN I.A. NO.17201/2013. R1 TO R3 BY SPL. GOVT. PLEADER MR.SUJITH MATHEW JOSE. R4 & R8 BY ADV. SRI.ASOK M.CHERIAN. R5 TO R7 & R9 BY ADV. SRI.DINESH R.SHENOY, SMT.T.S.SAUMYA. ADDL. R10 BY ADV. SRI. SHANAVAS KHAN. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON2901-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. WP(C).No. 30807 of 2013 (A) APPENDIX PETITIONER'S EXHIBITS:- EXHIBIT-P1- TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE BEARING REG. NO. KL- 07- BX-5842 BELONGS TO1T PETITIONER. EXHIBIT-P2- TRUE COPY OF THE CONTRACT CARRIAGE PERMIT OF VEHICLE BEARING REG. NO. KL07BX-5842 BELONGS TO1T PETITIONER. EXHIBIT-P3- TRUE COPY OF THE COMPLAINT LODGED BEFORE THE3D RESPONDENT DATED0412/2013. EXHIBIT-P4- TRUE COPY OF4 THE RECEIPT ISSUED BY THE3D RESPONDENT DATED0412/2013. RESPONDENT'S EXHIBITS:- EXT.R4A COPY OF THE RESOLUTION ADOPTED BY THE THRIKKAKARA MUNICIPALITY DEMARCATING AUTORICKSHAW STANDS IN THRIKKAKARA MUNICIPALITY DATED2901/2013, IN ACCORDANCE WITH INSTRUCTIONS FO REGIONAL TRANSPORT OFFICER, ERNAKULAM. EXT.R7A COPY OF THE RESOLUTION NO.10 DATED2901/2013 PASSED BY THE THRIKKAKARA MUNICIPALITY. EXT.R10A COPY OF THE PROCEEDINGS IN RESPECT OF THE MEETING HELD ON0511/2012. //TRUE COPY// P.A. TO JUDGE rs. MANJULA CHELLUR,

----- W.P(C).No. 30807 of 2013
----- Dated this the 29th January, 2014

JUDGMENT

Shaffique, J.

The petitioner has approached this Court for police protection to park their vehicles in the taxi-stand and to take passengers and ply it as taxi through all the roads in Kerala. The petitioners are registered owners of motor-cab (taxi) having brand name "TATA MAGIC IRIS". They have obtained contract carriage permit issued by Regional Transport Officer, Ernakulam to ply their vehicles as taxi through all the roads in Kerala. The vehicle can carry three passengers.

2. The complaint of the petitioner is that respondents 4 to 9 are auto drivers attached to the stands where the petitioners' vehicles are also parked and they are not permitting the petitioners' vehicles to park in the auto stands and to take passengers.

3. Counter affidavit is filed by respondents 4 and 8 inter alia contending that auto taxies cannot be parked in the auto stands as auto is separately defined under the provisions of the Act and WP(C).30807/13 2 they cannot be treated as auto. The Municipality has stated that they have not demarcated any separate place for auto taxies whereas they have given specific areas to park autorikshaws and it is sent for approval to the regional transport authorities.

4. Having regard to the nature of contentions urged, we are of the view that auto taxies will have to obtain necessary permits to park their vehicles in a particular area to be notified by the Municipality for which they have to approach the Municipality. The petitioners cannot insist that their vehicles should be parked in the area earmarked for autorikshaws.

5. Under these circumstances, the request for police protection cannot be granted. However, it shall be open to the petitioners to approach the authorities concerned

for demarcating necessary area for parking/halting in accordance with the procedure required. The Writ Petition is hence dismissed. MANJULA CHELLUR, CHIEF JUSTICE SHAFFIQUE, JUDGE vgs30.1.14

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