

**Roy Thomas Vs. State of Kerala and Others**

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**SooperKanoon Citation :** [sooperkanoon.com/1166791](http://sooperkanoon.com/1166791)

**Court :** Kerala

**Decided On :** Oct-31-2014

**Judge :** Honourable Mr. Justice a.K.Jayasankaran Nambiar

**Appellant :** Roy Thomas

**Respondent :** State of Kerala and Others

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR FRIDAY, THE 31<sup>ST</sup> DAY OF OCTOBER 2014 9<sup>TH</sup> KARTHIKA, 1936 WP(C).No. 28408 of 2009 (U)

----- PETITIONER(S): ----- ROY THOMAS, AGED 35 YEARS, S/O. CHANDY THOMAS, KOTTOOR HOUSE, VENGAL ALAMTHURUTHI P.O., KAVUMBHAGOM VILLAGE, THIRUVALLA. BY ADVS. SRI.P.V.ANIL SRI.P.P.SHIBY RESPONDENT(S): ----- 1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, THIRUVANANTHAPURAM.

2. THE DPUTY TAHSILDAR, REVENUE RECOVERY, TALUK OFFICE, THIRUVALLA.

3. THE JOINT REGIONAL TRANSPORT OFFICER, THIRUVALLA. ADDL. 4<sup>TH</sup> RESPONDENT:

4. THE TRANSPORT COMMISSIONER, THIRUVANANTHAPURAM. ADDL.4TH RESPONDENT IS IMPEADED SUO MOTU AS PER

ORDER

DATED 30.11.2009 IN THE WRIT PETITION. R, BY GOVERNMENT PLEADER SMT.LILLY.K.T. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31.10.2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: W.P.(C).NO.28408/2009 APPENDIX PETITIONER'S EXHIBITS: EXT.P1: COPY OF THE DEMAND NOTICE DATED 26.5.2009 ISSUED BY THE 2D RESPONDENT TO THE PETITIONER UNDER SECTION 7 OF THE RR ACT. EXT.P2: COPY OF THE DEMAND NOTICE DATED 26.5.2009 ISSUED UNDER SECTION 34 BY THE 2D RESPONDENT TO THE PETITIONER. EXT.P3: COPY OF THE RELEVANT PAGE OF R.C. BOOK OF THE VEHICLE IN QUESTION. EXT.P4: COPY OF THE REPRESENTATION DATED 9.9.2009 SENT BY THE PETITIONER TO THE 3D RESPONDENT. EXT.P5: COPY OF ACKNOWLEDGMENT RECEIPT OF EXT.P4 BY THE 3D RESPONDENT. RESPONDENTS EXHIBITS: NIL. //TRUE COPY// P.S.TO JUDGE A.K.JAYASANKARAN NAMBIAR, J.

----- W.P.(C).NO.28408 OF 2009 -----

Dated this the 31st day of October, 2014

## JUDGMENT

The petitioner approached this Court challenging the revenue recovery proceedings initiated against him for motor vehicle tax dues for the period from 1.4.2006 to 31.12.2008 in respect of vehicle bearing registration No.KL-01/M.1885. Exts.P1 and P2 are the revenue recovery notices served on the petitioner. It is the specific case of the petitioner that the registration number of the vehicle, shown in the notices served on him, pertains to a vehicle which was never owned by the petitioner at any stage. In fact, on receipt of the notices from the 2nd respondent, the petitioner had made enquiries and obtained Ext.P3 copy of the registration certificate of the vehicle that was covered by the notices served on him and that showed the vehicle to be a motor cycle registered in the name of one Abbas. It is therefore that he challenged Exts.P1 and P2 revenue recovery notices

in the present writ petition.

2. A statement has been filed on behalf of the 3rd respondent wherein it is averred that the vehicle with registration No.KL- W.P.(C).NO.28408/2009 2 01/M1885 is a Swaraj Mazda Contract carriage vehicle. It is stated that the said vehicle was shown as transferred from one Manojkumar to the petitioner, in the files before the 3rd respondent. When the matter came up for admission, this Court, taking note of the said stand of the respondents, by an interim order dated 30.11.2009 observed that there was prima facie indication of the existence of malpractice, forgery and misuse of registration with respect to the vehicle in question. This Court, therefore, directed the Transport Commissioner, who was impleaded as the additional 4th respondent, to conduct an investigation in the matter, through any competent authority, and submit a report before this Court. Pursuant to the said directions of this Court, the Transport Commissioner has filed an affidavit enclosing copies of the preliminary enquiry report, as well as final enquiry report, of the Deputy Transport Commissioner as also a copy of the First Information Report No.63/2010 that was lodged by the Joint Regional Transport Officer, Thiruvalla against the petitioner in the writ petition. A perusal of the final report produced by the 4th respondent would show that there was an error committed at the Sub Regional Transport Office, Thiruvalla while recording the registration number of the vehicle bearing Engine No.SLCTJ33539. While at the Regional Transport Office, Thiruvananthapuram, the vehicle with the W.P.(C).NO.28408/2009 3 said engine number is shown as having registration No.KL01/M1335, the said vehicle is seen as having registration No.KL01 M1885 in Sub Regional Transport Office, Thiruvalla. It was on account of those discrepancies that the revenue recovery notices in respect of vehicle bearing registration No.KL01/M1885 was issued to the petitioner who was shown as the registered owner of the said vehicle in the Sub Regional Transport Office, Thiruvalla.

3. I have heard the learned counsel for the petitioner as well as the Government pleader on behalf of the respondents. On a consideration of the facts and circumstances of the case as well as the submissions made across the bar, I find that the case of the petitioner is that the vehicle with registration No.KL01/M1885 is actually registered as such before the Regional Transport Office,

Thiruvananthapuram and the said vehicle is a LML Vespa scooter. Since the original registration of the Swaraj Mazda vehicle, which was eventually transferred to the petitioner, was with the registration No.KL01/M1335, the petitioner could be made liable only in respect of the motor vehicle tax dues in respect of the said vehicle. I find force in the said contention. The mistake that was occasioned while entering the registration number of the vehicle in the Sub Regional W.P.(C).NO.28408/2009 4 Transport Office, Thiruvalla, cannot be held against the petitioner while making a demand for tax against the said petitioner in respect of the vehicle in question. Accordingly, I quash Exts.P1 and P2 demand notices issued against the petitioner in respect of vehicle No.KL01/M.1885, that is shown to be an LML Vespa scooter and not the Swaraj mazda contract carriage vehicle that was owned by the petitioner. I make it clear that it shall be open to the respondents to pursue the proceedings initiated through Annexure R4(c) FIR and also independently proceed against the petitioner for unpaid tax dues, if any, pertaining to the vehicle, in respect of which, the petitioner was the registered owner during the relevant period of time. With these directions, the writ petition is disposed. A.K.JAYASANKARAN NAMBIAR JUDGE prp

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