

Banazeer Riyas vs the Additional Registering Authority

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Court : Kerala

Decided On : Feb-01-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/44143/2023

Appellant : Banazeer Riyas

Respondent : The Additional Registering Authority

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
THURSDAY, THE 1ST DAY OF FEBRUARY 2024 / 12TH MAGHA, 1945
WP(C) NO. 456 OF 2022 PETITIONER: BENAZEER RIYAS, AGED 42
YEARS, S/O. KUNHAYANKUTTY, RIYAS MANZIL, NADUVANNUR,
KOYILANDY, KOZHIKODE-673614. BY ADVS. SMT.NEETHU SOMAN
SMT.RASHMI.K.V RESPONDENTS: 1 THE ADDITIONAL
REGISTERING AUTHORITY, KODUVALLY, JOINT REGIONAL
TRANSPORT OFFICE, KOYILANDY P.O., KOZHIKODE-673572. 2
MUHAMMED MAHI ABOOBACKER, S/O. KOYAMU, KARUVARAKODE
HOUSE, MANIPURAM P.O., KODUVALLY, KOZHIKODE-673572. BY
ADVS. SRI.S.GOPINATHAN, SR. GOVERNMENT PLEADER THIS

WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.02.2024, ALONG WITH WP(C).44143/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :2:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
THURSDAY, THE 1ST DAY OF FEBRUARY 2024/12TH MAGHA, 1945
WP(C) NO. 44143 OF 2023 PETITIONER: BANAZEER RIYAS, AGED
44 YEARS, RIYAS MANZIL, NADUVANNUR, K OYILANDY,
KOZHIKODE, PIN - 673614 BY ADV K.V.RASHMI RESPONDENTS:

1 THE ADDITIONAL REGISTRING AUTHORITY, KODUVALLY, JOINT
REGIONAL TRANSPORT OFFICE, KOYILANDY P.O., KOZHIKODE,
PIN - 673572 2 MUHAMMED MAHI ABOOBACKER, S/O KOYAMU,
KARUVARAKODE HOUSE, MNIPURAM P.O., KODUVALLY,
KOZHIKODE., PIN - 673572 BY ADVS. SRI.S.GOPINATHAN, SR.
GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING
COME UP FOR ADMISSION ON 01.02.2024, ALONG WITH
WP(C).456/2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING: :3:

JUDGMENT

Dated this the 1st day of February, 2024 [W.P.(C) Nos.456 of 2022 and 44143 of 2023] The petitioner, who is a bonafide purchaser of Heavy Goods Carriage Vehicle bearing registration No.KL-57E-9076, filed this writ petition seeking to direct the 1st respondent-Additional Registering Authority, Koduvally to accept the application for renewal of Fitness Certificate and inspect the vehicle KL-57E-9076 notwithstanding the objections raised by the registered owner, within a time frame.

2. W.P.(C) No.456 of 2022 was filed seeking

Fitness Certificate for the year 2022-'23. Subsequently, the petitioner filed W.P.(C) No.44143 of 2023 seeking to direct the 1st respondent-Additional Registering Authority to inspect the vehicle KL-57E-9076 so as to enable the :4: petitioner to

run and operate the vehicle within a time frame. The petitioner sought to direct the 1 st respondent to accept application for renewal of Fitness Certificate in respect of the vehicle for the year 2023-'24.

3. When W.P.(C) No.44143 of 2023 came up for

admission on 03.01.2024, this Court issued urgent notice on admission by speed post to the 2 nd respondent, who is the registered owner of the vehicle. On 11.01.2024, taking into consideration the interim orders passed in similar cases, this Court directed the respondents that the application submitted by the petitioner for renewal of Fitness Certificate shall be provisionally accepted.

4. The counsel for the petitioner submits that the

objection of the registered owner need not be considered at the time of renewal of Fitness Certificate as sought for by the petitioner. The statutory provision as far as renewal of Fitness Certificate is concerned, Section 56 of the Motor Vehicles Act, 1988 doesn't mandate that the application for renewal of Fitness Certificate should be submitted by the :5: registered owner alone. The petitioner relied on a Division Bench judgment of this Court in AnilKumar S. v. Secretary Regional Transport Authority, Kollam (2010 (1) KLT 758) in support of the petitioner's case.

5. Senior Government Pleader entered appearance

and resisted the writ petitions filing a Statement. The Senior Government Pleader submitted that in W.P.(C) No.44143 of 2023, this Court passed an interim order inspite of objections of the respondents, directing the respondents to provisionally accept the application for renewal of Fitness

Certificate of the petitioner. In fact, when the interim order

was passed, there was pending application for renewal of Fitness Certificate. The petitioner produced application for renewal only on 25.01.2024. However, in deference to the orders of this Court, the respondents have considered the application and has allowed the application extending the period of Fitness Certificate up to 24.01.2025 provisionally.

6. I have heard the learned counsel for the petitioner and the learned Senior Government Pleader. :6:

7. The application of the petitioner is for renewal of

Fitness Certificate. Though the petitioner submitted the application for renewal for the year 2023-'24 only on 25.01.2024, the respondents have, pursuant to the interim orders of this Court, now issued provisional Fitness Certificate which is valid up to 24.01.2025. Though notice has been issued to the 2nd respondent in the writ petition, there is no appearance by the 2nd respondent.

8. I find that the application submitted by the

petitioner is only for a Fitness Certificate in respect of the vehicle. In the ordinary course, the fitness of a vehicle is not related to the ownership of the vehicle. If parties have any dispute regarding the ownership of the vehicle, they have to resort to appropriate Civil remedies for redressal of their grievances. Taking into consideration the fact that the petitioner's Fitness Certificate has been renewed till 25.01.2025, these writ petitions are disposed of recording the said submission. It will be open to the 2nd respondent to :7: agitate his grievance before appropriate forum, if he is aggrieved. Sd/- N. NAGARESH JUDGE SR :8: APPENDIX OF WP(C) 456/2022 PETITIONER'S EXHIBITS: S Exhibit P1 TRUE COPY OF THE RC BOOK OF KL-57 E 9076. Exhibit P2 TRUE COPY OF THE SALE AGREEMENT DATED 17.9.2019. Exhibit P3 TRUE COPY OF THE FITNESS OF VEHICLE KL-57 E 9076. Exhibit P4 TRUE COPY OF THE ORDER EXTENDING FITNESS BY THE CENTRAL GOVERNMENT DATED 30.9.2021. Exhibit P5 TRUE COPY OF THE DECISION IN 2010(1) KLT 758. :9: APPENDIX OF WP(C) 44143/2023 PETITIONER'S EXHIBITS: Exhibit P1 TRUE COPY OF THE RC BOOK OF THE VEHICLE REGISTRATION NUMBER KL 57 E Exhibit 2 TRUE COPY OF THE SALE AGREEMENT DATED 17-05-2019 AND ENGLISH TRANSLATION Exhibit P2 TRUE COPY OF THE SALE AGREEMENT DATED 17-05-2019 Exhibit P3 TRUE COPY OF THE INTERIM ORDER IN WP(C)456/2022 DATED 07-01-2022 Exhibit P4 TRUE COPY OF THE CONDITION OF THE VEHICLE DOWNLOADED FROM THE PARIVAHAN SITE OF THE CENTRAL GOVERNMENT

