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E.Pradeep vs the Deputy Inspector General of Registration(Licensing)

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Court : Kerala

Decided On : Jun-20-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/1602/2020

Appellant : E.Pradeep

Respondent : The Deputy Inspector General of Registration(Licensing)

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 20TH DAY OF JUNE 2023 / 30TH JYAISHTA, 1945 WP(C) NO. 1602 OF 2020 PETITIONERS: 1 E.PRADEEP, AGED 57 YEARS, S/O. KRISHNAN, DOCUMENT WRITER, RESIDING AT VISHNUMAYA, NEAR ARANGETTUPARAMBA U.P. SCHOOL, ERANHOLI P.O. 670 107, THALASSERY TALUK, KANNUR DISTRICT. 2 N. VIJAYARAGHAVAN, AGED 62 YEARS, S/O. VASU, DOCUMENT WRITER, RESIDING T GEM, KODIYERI AMSOM DESOM, THIRUVANGAD P.O. THALASSERY, KANNUR DISTRICT 670 103. BY ADVS. R.SURENDRAN S.MAYUKHA RESPONDENTS: 1 THE DEPUTY

INSPECTOR GENERAL OF REGISTRATION (LICENSING), EX-MAYOR R. BALAKRISHNAN NAIR RD, NEAR DISTRICT COURT, VANCHIYOOR, THIRUVANANTHAPURAM , KERALA 695 035. 2 THE STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM 695 001. 3 PREMAN.K.P., AGED 47 YEARS, S/O. MATHIKUTTY, BUSINESS, RESIDING AT KUNHIPEEDIKAYIL HOUSE, KOLAVALLOOR AMSOM DESOM, KUNNOTHPARAMBA, PANOOR P.O. THOVAKUNNU, 670 693, KANNUR DISTRICT. BY ADVS. SRI.P.P.RAMACHANDRAN SRI. HANILKUMAR-SP. GP THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20.06.2023, ALONG WITH WP(C).9113/2023, 18400/2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 20TH DAY OF JUNE 2023 / 30TH JYAISHTA, 1945 WP(C) NO. 18400 OF 2020 PETITIONER: E.PRADEEP, AGED 58 YEARS, S/O KRISHNAN, DOCUMENT WRITER, RESIDING AT 'VISHNUMAYA',NEAR ARANGETTUPARAMBA U.P.SCHOOL,ERANHOLI.P.O, PIN-670107,THALASSERY TALUK,KANNUR DISTRICT. BY ADVS. R.SURENDRAN KUM.S.MAYUKHA RESPONDENTS: 1 THE STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECETARY,TAXES DEPARTMENT,SECRETARIAT, THIRUVANANTHAPURAM-695001. 2 THE INSPECTOR GENERAL OF REGISTRATION, EX-MAYOR R BALAKRISHNAN NAIR ROAD, NEAR DISTRICT COURT,VANCHIYOOR, THIRUVANANTHAPURAM DISTRICT, KERALA-695035. 3 THE DEPUTY INSPECTOR OF GENERAL OF REGISTRATION, NORTHERN REGION,OFFICE OF THE DEPUTY INSPECTOR GENERAL OF REGISTRATION,

NORTHERN REGION,KOZHIKODE,PIN-673001. BY ADVS. SRI.MOHAMMED ANZAR K.J. SRI.HANIL KUMAR - SPL G.P THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20.06.2023, ALONG WITH WP(C).1602/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 20TH DAY OF JUNE 2023 / 30TH JYAISHTA, 1945 WP(C) NO. 9113 OF 2023 PETITIONER: E.PRADEEP, AGED 60 YEARS, S/O.KRISHNAN, DOCUMENT WRITER, RESIDING AT 'VISHNUMAYA', NEAR ARANGETTUPARAMBA U.P SCHOOL, ERANHOLI.P.O. THALASSERY TALUK, KANNUR DISTRICT., PIN - 670107 BY ADV R.SURENDRAN RESPONDENTS: 1 STATE OF KERALA, REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY, TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001 2 THE DEPUTY INSPECTOR GENERAL OF REGISTRATION (LICENSING), OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION, VANCHIYOOR, THIRUVANANTHAPURAM, KERALA, PIN - 695035 3 THE SUB REGISTRAR, OFFICE OF THE SUB REGISTRAR, GUNDERT ROAD, THALASSERY, KANNUR DISTRICT., PIN - 670101 BY ADV SRI.HANIL KUMAR - SPL G.P. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20.06.2023, ALONG WITH WP(C).1602/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C) Nos.1602/2020, 9113/2023, 18400/2020] I am considering these Writ Petitions together because the

facts involved are analogous, while the reliefs sought for are

interlayered.

2. Among the three, WP(C)Nos.1602/2020 and 18400/2020

have been filed by Sri.E.Pradeep - who is a licensed Document Writer, impugning two sets of show-cause notices issued to him by the competent statutory Authorities, asking him to show cause why his license be not cancelled.

3. Coming to the third Writ Petition, namely

WP(C)No.9113/2023, this is also filed by Sri.E.Pradeep, aggrieved by the fact that, pending the aforesaid proposed action, his license has been refused to be renewed from 01.06.2022 to 31.05.2023.

4. Sri.R.Surendran - learned counsel for the petitioner,

submitted that the allegations imputed against his client in WP(C)Nos.1602/2020 and 18400/2020 are at the instance of a person by name Sri.K.P.Preman, who has been arrayed as respondent No.3 in the first among them. He argued that this person is not, in any manner, involved with the transactions in question, but alleges that, as regards the Sale Document which was prepared by his client - which is the subject matter in WP(C)No.1602/2020, there is a mistake in the plinth area of the building mentioned therein; and as regards the document which is the subject matter in WP(C)No.18400/2020, the number of the prior title deed has been shown incorrectly. He asserted that, pertinently, Sri.K.P.Preman is not, in any manner, involved with the transactions or the documents, but that he has made a complaint as if he has personal knowledge of such actions, even when the executants and beneficiaries of the said documents have accepted every covenant and term of the same. He submitted that, therefore, the proposed action against his client is not merely frivolous, but malafide and unnecessary.

5. Sri.R.Surendran then submitted that, merely because the

afore allegations are still pending against his client, the Deputy Inspector General of Registration is refusing to consider his application for renewal of license from 01.06.2020 to 31.05.2023, even though his connected Scribe License has been

renewed until 31.05.2023. He, therefore, prayed that the said Authority be directed to allow his application for renewal of Ext.P1 license in WP(C)No.9113/2023, within a time frame to be fixed by this Court.

6. In response, Sri.Hanilkumar - learned Special

Government Pleader, submitted that the impugned show-cause notices in WP(C)Nos.1602/2020 and 18400/2020 were issued to the petitioner as a routine investigative measure because, a complaint was received against him by the aforementioned Sri.K.P.Preman. He submitted that, therefore, the competent Authority will complete the enquiry, after hearing the petitioner also and take a final decision as to his claims in all these Writ Petitions.

7. In reply, Sri.R.Surendran submitted that this Court, in

Ext.P9 judgment produced along with WP(C)No.1602/2020 - which relates to another similarly placed Document Writer - has found that there is a difference between complicity in a fraudulent transaction and a mistake in a document. He submitted that even if there is mistake in a document, the license of a person like his client cannot be cancelled, but that, at the best, it can only warrant a punishment of warning; and hence that nothing stops the Deputy Inspector General of Registration considering and allowing his application for renewal of Ext.P1 license in WP(C)No.9113/2023.

8. The afore rival submissions being placed on record,

what is now relevant is to verify whether the notices impugned in WP(C)Nos.1602/2020 and 18400/2020 deserve to be interdicted by this Court at this stage. Prima facie, what is reflected from these notices is that a complaint was preferred against the petitioner by the aforementioned Sri.K.P.Preman, asserting that the former had committed irregularities and misfeasance with respect to two different Sale Deeds, with which he absolutely has no connection. This appears to have spurred the competent Authority to issue the impugned show-cause notices, though an enquiry into the same has not been yet completed.

9. As I have said above, it is the specific case of the petitioner that the instances impelled in these cases have analogous bearing to which were seen by this Court in Ext.P9

judgment in WP(C)No.1602/2020; but consideration of this will

surely have to be done by the competent Authority at the first instance. I do not think that this Court will be justified in interdicting the show-cause notices at this stage, thus preempting an enquiry, though the question whether the aforementioned Sri.Preman has any locus to have maintained the complaint and such other, are certainly aspects which will have to be decided appositely.

10. However, coming to WP(C)No.9113/2023, I do not think

that it is justified to refuse renewal of the license of the petitioner or to keep his applications for such purpose pending until such time as the afore enquiry is completed, particularly because, prima facie, it does not appear that he should be put to prejudice at this stage on the basis of yet uncorroborated or unproved allegations. In the afore circumstances, a) WP(C)Nos.1602/2020 and 18400/2020 are ordered, directing the competent Authority to allow the petitioner to file objections/additional objections, as he may please, to the impugned show-cause notices, within a period of one month from the date of receipt of a copy of this judgment; consequent to which, the competent Authority will hear him, the aforementioned Sri.K.P.Preman, as also any other person who may be interested; thus culminating in an appropriate order and necessary action thereon within a period of six months from the date of receipt of a copy of this judgment. b) I clarify that while the afore exercise is completed, no

conclusion now entered in the impugned notices or proceedings in

either of these cases will trammel or fetter the Authorities from conducting a proper enquiry and completing the proceedings thereunder. To paraphrase, the Authorities will act without being influenced by what is stated in Exts.P7 and P8 in WP(C)No.1602/2020 and Exts.P8 and P9 in WP(C)No.18400/2020. c)

WP(C)No.9113/2023 is allowed and the 2nd respondent - Deputy Inspector General of Registration is directed to immediately consider the petitioners request for renewal of license, without waiting for completion of the afore enquiry, but subject to its final decision, and after affording him an opportunity of being heard; thus culminating in an appropriate order and necessary action thereon, confirming all other statutory requirements being satisfied, within a period of one month from the date of receipt of a copy of this judgment. d) Needless to say, until such time as the directions in (c) above are completed, the interim order of this Court dated 21.03.2023 in WP(C)No.9113/2023 will continue to be in force. Sd/- RR DEVAN RAMACHANDRAN JUDGE APPENDIX OF WP(C) 1602/2020 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE SALE DEED DATED 18.1.2018, REGISTERED A DOCUMENT NO. 120 OF 2018 OF SRO CHOKLI. EXHIBIT P2 TRUE COPY OF THE SETTLEMENT/GIFT DATED 1894 OF 2016 OF SRO CHOKLI, EXECUTED BY SMT. RAMNA, IN FAVOUR OF HER HUSBAND SRI. BAIJU. P.K. EXHIBIT P3 TRUE COPY OF THE COMPLAINT DATED 14.8.2019 FILED BY THE THIRD RESPONDENT BEFORE THE DISTRICT REGISTRAR (GENERAL), KANNUR. EXHIBIT P4 TRUE COPY OF THE REPORT DATED 29.8.2019 OF SUB REGISTRAR, CHOKLI SUBMITTED BEFORE THE DISTRICT REGISTER (GENERAL), KANNUR. EXHIBIT P5 TRUE COPY OF THE COMPLAINT DATED 16.9.2019 FIELD BY THE THIRD RESPONDENT BEFORE THE FIRST RESPONDENT. EXHIBIT P6 TRUE COPY OF THE REPORT DATED 20.12.2019 SUBMITTED BY THE DISTRICT REGISTRAR (GENERAL), KANNUR BEFORE THE FIRST RESPONDENT. EXHIBIT P7 TRUE COPY OF THE NOTICE DATED 7.1.2020 ISSUED BY THE FIRST RESPONDENT TO THE FIRST PETITIONER. EXHIBIT P8 TRUE COPY OF THE NOTICE DATED 7.1.2020 ISSUED BY THE FIRST RESPONDENT TO THE SECOND PETITIONER. EXHIBIT P9 TRUE COPY OF THE JUDGMENT DATED 21.11.2014 IN WPC NO. 23860 OF 2008. REPONDENTS EXTS: ANNEXURE R1(A) TRUE COPY OF THE REPORT DATED 24.10.2019 ANNEXURE R1(B) TRUE COPY OF THE REPORT OF THE SECRETARY, THALASSERY MUNICIPALITY DATED 12.11.2019. ANNEXURE R1(C) TRUE COPY OF THE REPORT DATED 03.12.2019 UNDER RTI ACT ANNEXURE R1(D) TRUE COPY OF THE CIRCULAR DATED 03.11.2012 ANNEXURE R1(E) TRUE COPY OF

THE NOTIFICATION DATED 16.05.1960 APPENDIX OF WP(C) 18400/2020 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF THE SALE DEED DATED OF 2007 OF SRO THALASSERY EXHIBIT P2 TRUE COPY OF THE SHOW CAUSE NOTICE DATED 19.8.2020 ISSUED BY THE THIRD RESPONDENT EXHIBIT P3 TRUE COPY OF THE REPLY DATED

3.9.2020,SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT,THROUGH THE SUB REGISTRAR,THALASSERY

EXHIBIT P4 TRUE COPY OF THE DOCUMENT WRITER'S LICENCE DATED 4-11-1998 AND RENEWED FROM TIME TO TIME AND ISSUED TO THE PETITIONER (RELEVANT PAGES) EXHIBIT P5 TRUE COPY OF THE SCRIBE LICENCE DATED 4.11.1998 AND RENEWED FROM TIME TO TIME AND ISSUED TO THE PETITIONER (RELAVANT PAGES) EXHIBIT P6 TRUE COPY OF THE NOTICE DATED 1-10-2020 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER EXHIBIT P7 TRUE COPY OF REPLY DATED 9-10-2020 SUBMITTED BYTHE PETITIONER BEFORE THE THIRD RESPONDENT THROUGH THE SUB REGISTER, THALASSERY EXHIBIT P8 TRUE COPY OF THE NOTICE DATED 17-11-2020 ISSUED BYTHE SECOND RESPONDENTQ EXHIBIT P9 TRUE COPY OF THE REPORT DATED 19-10-2020 SIGNED BY THE THIRD RESPONDENT AND APPENDED TO THE EXHIBIT P8 NOTICE APPENDIX OF WP(C) 9113/2023 PETITIONER EXHIBITS Exhibit-P1 A TRUE COPY OF THE DOCUMENT WRITER'S

LICENSE NO. DAR-108 DATED 4-11-1998, ISSUED BY THE SECOND RESPONDENT AND RENEWED THROUGH THE THIRD RESPONDENT Exhibit-P2 A TRUE COPY OF THE SCRIBE LICENSE BEARING NO.SAR-196 DATED 4-11-1998, ISSUED BY THE SECOND RESPONDENT AND RENEWED THROUGH THE THIRD RESPONDENT

Exhibit-P3 A TRUE COPY OF THE INTERIM ORDER DATED 26-11-2020 IN I.A NO.2 OF 2020 IN WP(C) NO.18400 OF 2020 ON THE FILE OF HIGH COURT OF KERALA Exhibit-P4 A TRUE COPY OF THE INTERIM ORDER DATED 9-11-2021 IN WP(C) NO.18400 OF 2020 OF HIGH COURT OF KERALA Exhibit-P5 A TRUE COPY OF THE APPLICATION DATED 18- 02-2020 SUBMITTED BY THE

PETITIONER FOR RENEWAL OF EXHIBIT P1 LICENSE Exhibit-P6 A TRUE COPY OF THE APPLICATION DATED 20- 2-2023 FOR RENEWAL OF EXHIBIT P1 LICENSE SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT Exhibit-P7 A TRUE COPY OF THE APPLICATION DATED 20- 2-2023 FOR RENEWAL OF EXHIBIT P2 LICENSE SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT Exhibit-P8 A TRUE COPY OF THE LETTER DATED 4-3-2023 ISSUED BY THE SECOND RESPONDENT TO THE DISTRICT REGISTRAR (GENERAL), KANNUR AT THALASSERY Exhibit-P9 A TRUE COPY OF THE COMMUNICATION DATED 10-3-2023 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER

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