

Manojkumar.S vs State of Kerala

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Court : Kerala

Decided On : Dec-26-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : WP(C)/44024/2023

Appellant : Manojkumar.S

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
TUESDAY, THE 26TH DAY OF DECEMBER 2023 / 5TH POUSHA,
1945 PETITIONERS: MANOJKUMAR.S AGED 47 YEARS SON OF
SREEDHARAN NAIR, MINI BHAVANAM, ERAVAMKARA, KUNNAM
P.O., MAVELIKKARA TALUK, ALAPPUZHA DISTRICT, PIN - 690108
BY ADVS. ALEX K.JOHN SRAYAS JOSEPH ANIL G. PILLAI
RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY,
REVENUE DEPARTMENT, TRIVANDRUM, PIN - 605036 2 THE
DISTRICT COLLECTOR COLLECTRATE, ALAPPUZHA DISTRICT,

ALAPPUZHA, PIN - 3 SIVADASAN NAIR AGED 50 YEARS
S/O.VELAYUDHAN NAIR, MAVOOTTIL VEEDU, EVOOR NORTH.,
CHEPPAD VILLAGE, HARIPAD, ALAPPUZHA DISTRICT., PIN - 4 SOJI
AGED 35 YEARS S/O.RAVEENDRAN, SOUDALAYALAM HOUSE,
MANADIVIKAD, KARTHIKAPPALLY TALUK, ALAPPUZHA DISTRICT,
PIN - 5 ORIENTAL INSURANCE COMPANY LIMITED REPRESENTED
BY DIVISIONAL MANAGER, DIVISIONAL OFFICE, THIRUVALLA,
PATHANAMTHITTA DISTRICT, PIN - 689101 6 BAIJU AGED 42
YEARS S/O.JOHN, NANNATU VADAKKETHIL, CHERUMUKHA
KARAYIL, NOORNADU VILLAGE, ALAPPUZHA DISTRICT., PIN -
690504

ADV SREEJITH V S-GP THIS WRIT PETITION (CIVIL) HAVING COME
UP FOR ADMISSION ON 26.12.2023, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner was the 2nd respondent in OP(MV)No.704/2010, on the file of Motor Accidents Claim Tribunal, Mavelikkara. In the said case an award has been passed by the Tribunal, granting an amount of Rs.1,27,906/-, recoverable from the insurer of the said vehicle, with interest at the rate of 7.5% per annum from the date of petition till realisation. As the insurer raised a contention as to the violation of policy conditions by the owner of the said vehicle, the Tribunal permitted the insurer to recover the said compensation after satisfaction of the award from the petitioner herein, who was the registered owner of the said vehicle. Consequently, the insurer satisfied the award and revenue recovery proceedings were initiated at their instance against the petitioner and as part of the same Ext.P1 demand notice was served upon.

2. The petitioner submits that, he was not aware of the said proceedings as no notice of the proceedings before the Claims Tribunal has been received by him. He intends to file an

application to set aside the ex-parte order

against him, and he seeks a breathing time for the same. He also contends that, he had already transferred the said vehicle years ago, and as of now the said vehicle is in possession of the 6th respondent.

3. After hearing, the learned Counsel for

the petitioner as well as the Government Pleader, I am of the view that this writ petition can be disposed of granting a breathing time to the petitioner, to invoke his statutory remedies. Accordingly, it is ordered that the recovery proceedings pursuant to Ext. P1 shall be kept in abeyance for a period of one month from today. This is only to enable the petitioner to move the Tribunal to set aside the ex-parte order and to seek appropriate reliefs. Thus, the Writ Petition is disposed of with the above direction without making any observations on the merits of the case. Sd/- ZIYAD RAHMAN A.A. JUDGE sms APPENDIX OF WP(C) 44024/2023

PETITIONER EXHIBITS Exhibit P1 TRUE TYPED COPY & ORIGINAL COPY OF THE DEMAND NOTICE ISSUED BY THE DISTRICT COLLECTOR, ALAPPUZHA IN THE NAME OF PETITIONER HEREIN DATED 18.11.2023 Exhibit P2 TRUE COPY OF THE AGREEMENT DATED 05.02.2005 FOR SALE OF VEHICLE OWNED BY PETITIONER HEREIN WITH THE 6TH RESPONDENT HEREIN WHO IS HAVING POSSESSION OF THE VEHICLE AT THE TIME OF ACCIDENT

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