

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 23RD DAY OF MARCH 2020 / 3RD CHAITHRA, 1942

WP(C).No.33585 OF 2019(W)

PETITIONER/S:

A.J.JOSEPH, AGED 66 YEARS, S/O. JOHN, ALUNKAL HOUSE,  
ANICKAD EAST, P.O.KOTTAYAM.

BY ADV. SRI.I.DINESH MENON

RESPONDENT/S:

- 1 THE DISTRICT POLICE CHIEF, KOTTAYAM, COLLECTORATE  
P.O., KOTAYAM-686 602.
  - 2 THE CIRCLE INSPECTOR OF POLICE, PALLICKATHODE,  
PALLICKATHODE P.O., KOTTAYAM-686 537.
  - 3 THE CIRCLE INSPECTOR OF POLICE, MUNDAKKAYAM,  
MUNDAKKAYAM P.O., KOTTAYAM-686 513.
  - 4 TOMY MATHEW, CHITTAPPANATTU HOUSE, MUNDAKKAYAM P.O.,  
KOTTAYAM-686 513.
  - 5 ANILKUMAR, S/O. RAGHAVAN, ETTACKAL HOUSE,  
CHIRAKKADAVU CENTER P.O., PONKUNNAM, KOTTAYAM-686  
519.
  - 6 SAJU, PANACHIKAL HOUSE, S. PARAVOOR, ERNAKULAM-682  
307.
- ADDL.R7. AUTHORISED OFFICER, M/S. ICICI BANK LIMITED, EMGEE  
SQUARE, M.G.ROAD, KOCHI - 682 035.

(ADDITIONAL 7<sup>th</sup> RESPONDENT IS IMPEADED AS PER ORDER  
DATED 25.02.2020 IN I.A.NO.2/2020)

R6 BY ADV. SRI.D.KISHORE

R6 BY ADV. SMT.MINI GOPINATH

R6 BY ADV. SMT.MEERA GOPINATH

R6 BY ADV. SRI.R.MURALEEKRISHNAN (MALAKKARA)

BY SENIOR GOVERNMENT PLEADER, SRI.P.P.THAJUDEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
23.03.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

### **JUDGMENT**

**Dated this the 23rd day of March 2020**

The vehicle registered in the name of the petitioner bearing No.KL-05 AN 2146 was financed by the seventh respondent. By change of hands, the vehicle was in possession of the sixth respondent. There is a default of loan payment. Fearing that the vehicle would be dismantled and the petitioner would be saddled with the liability, the petitioner approached this Court for police protection to take custody of the vehicle.

2. Pursuant to the interim order, the vehicle has been taken into custody with the assistance of police and handed over to the financier.

3. After arguing with the case for sometime, the learned counsel for the sixth respondent submitted that he would discharge the entire liability to the seventh respondent within four months. The petitioner submitted that he has no objection in releasing the vehicle to the sixth respondent, provided, the entire

loan amount is discharged by the sixth respondent. The seventh respondent submitted that there is no privity of contract with the sixth respondent and the vehicle can be only given back to the petitioner on clearing the loan amount. In view of the fact that the first respondent has no objection in releasing the vehicle to the sixth respondent on clearing the loan amount based on the consensus arrived at by the parties, I dispose the writ petition with the following directions:

i. The entire vehicular document with the petitioner including original registration certificate shall be given to the seventh respondent within ten days.

ii. The sixth respondent shall pay Rs.2,00,000/- (Rupees two lakhs only) on or before 31.3.2020 towards defaulted arrears.

iii. The sixth respondent is given four months time to clear the entire loan amount.

iv. In view of the no objection raised by the petitioner to release the vehicle to the sixth respondent on payment of entire loan amount and clearing the liability, the vehicle shall be released and transferred to the sixth respondent.

v. If the terms and conditions are not worked out as indicated above, the seventh respondent is free to work out their rights available in terms of the contract and law as though they are not bound by the aforesaid agreement.

sd/-

**A.MUHAMED MUSTAQUE**

**JUDGE**

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## APPENDIX

### PETITIONER'S/S EXHIBITS:

EXHIBIT P1            TRUE COPY OF THE RC BOOK OF THE VEHICLE KL-05 AN  
2146.

EXHIBIT P2            TRUE COPY OF THE SALE AGREEMENT DATED 16.11.2018.

EXHIBIT P3            TRUE COPY OF THE COMPLAINT DATED 3.7.2019.

EXHIBIT P4            TRUE COPY OF THE COMPLAINT DATED 22.11.2019.

EXHIBIT P5            TRUE COPY OF THE COMPLAINT DATED 7.12.2019.

EXHIBIT P6            TRUE COPY OF THE LETTER PRODUCING THE INTERIM  
ORDER ALONG WITH THE PHOTOGRAPH.

### RESPONDENT'S/S EXHIBITS:

EXHIBIT R6(a)        TRUE COPY OF THE AGREEMENT DATED 14.5.2019  
EXECUTED BETWEEN THE 4TH RESPONDENT AND 6TH  
RESPONDENT.

//TRUE COPY//

P.A.TO JUDGE