

Supreme Court of India

The State Of Kerala And Ors. vs Motor & General Finance Ltd. on 28 October, 1975

Equivalent citations: AIR 1976 SC 2332, (1976) 2 SCC 876, 1975 (7) UJ 927 SC

Author: N Untwalia

Bench: A Ray, N Untwalia

JUDGMENT N.L. Untwalia, J.

1. In our view these appeals should be disposed off in the manner stated below. Counsel for the parties also agreed to this.

(1) The appellants are allowed to withdraw their respective appeals as prayed for by them.

(2) The direction given the High Court in the writ appeals for filing fresh petitions before the Tehsildar objecting to the attachment of the 31 chassis will have to be followed. Two petitions in pursuance of the said direction, as stated at the Bar, have already been filed before the Tehsildar. One of them has been disposed off by him and a revision before the Board is pending. On the disposal of the other a revision may be filed before the Board. The Board shall try to dispose off the revision petitions as soon as possible.

(3) Counsel for the State of Kerala submitted, and in our opinion, rightly that invoking the writ jurisdiction of the High Court in the matter of attachment of the chassis is not the proper remedy. The remedy available in law to the aggrieved party is one of instituting a suit in a proper court. The aggrieved party, therefore, after the fresh disposal of the matter by the Tehsildar and the Board will, if necessary, institute a suit or suits to establish its right or claim to the chassis or to the attachment or sale thereof.

(4) The order of this Court dated 10-9-1974 passed in C.M.P. Nos. 5452-5453/74 directing M/s. Motor & General Finance Ltd. appellants in C.A. Nos. 1195-1196/74, to furnish bank guarantee in the sum of Rs. 15 lakhs will have to be complied with. The Bank guarantee in the sum of Rs. 10.5 lakhs already furnished with the District Collector, Ernakulam shall continue and a further bank guarantee in the sum of Rs. 4.5 lakhs will be furnished with the District Collector, Ernakulam within six weeks from today. The bank guarantees so furnished shall be operative and remain in force till after six weeks of the fresh disposal of the attachment matter by the Tehsildar and the Board as mentioned in Clause 2.

(5) There will be no order as to costs.