

2

Office of the Transport Commissioner,
Thiruvananthapuram.

289

Circular No. 5/81

No. 22702/TC/78/C.

August 1981.

Sub:- Motor Vehicles purchased in public auction -
encumbrance - ~~the~~ Transfer of ownership - instructions -
Ref: Circulars No. 12/77 & 5/79.

A doubt was raised by Regional Transport Officer, Palghat whether a Motor Vehicle purchased in public auction will pass on to the purchaser free from all encumbrances such as hire purchase agreement, hypothecation etc. The vehicle in question viz. KLP 7267 was auctioned by the Tahsildar, Palghat for arrears of sales tax. The vehicle was held under hire purchase agreement with the Indian Overseas Bank, Palghat who objected to the transfer of ownership of the vehicle to the name of the purchaser. The matter was referred to Government and Government have issued clarification in letter No. 29664/TC/10/1981 dated 20.3.81.

2. According to the clarification when a motor vehicle is attached under Revenue Recovery Act for arrears, it becomes the property of Government, subject to previous encumbrances, if any. Government could not claim that the property is free from all encumbrances when an attachment under the revenue recovery Act is made.

3. The Kerala High Court in C.P.No.4216/72 has decided as follows:

"By the revenue sale, what the petitioner would get is the right, title and interest of the debtor in the property. He cannot get a better right in the property against the trespasser than the debtor himself had",

4. In the light of the above said decision, the auction purchaser will get the vehicle subject to all previous encumbrances. The ownership of such vehicles cannot be transferred and entered in the Registration Certificate before clearing the encumbrances.

Sd/-

Transport Commissioner.

To
20

All officers.

~~Transport Commissioner, Thiruvananthapuram.~~

Copy for ~~All Deputy Transport Commissioners & Regional Transport Officers~~ *other officers.*
~~State Transport Commissioners.~~