

P.B.SURESH KUMAR, J.

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**W.P.(C).Nos.12348, 12416, 12417,
12418, 12551, 12733, 12734,
12828, 12871, 13207, 13309**

&

13311 of 2017.

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Dated this the 12th day of April, 2017.

ORDER

Admit. Learned Special Government Pleader takes notice for the State and the official respondents. The petitioners shall take out notice to the remaining respondents wherever applicable.

2. Heard the learned counsel for the petitioners as also the learned Special Government Pleader for the interim relief sought by the petitioners.

3. Petitioners in this batch of writ petitions have purchased two and three wheeled motor vehicles. Registering authorities under the Motor Vehicles Act, 1988 in the State have declined registration to the said motor vehicles on the ground that the same are not conforming

to BS IV Standards. According to the petitioners, they have purchased the vehicles referred to in the writ petitions on 31.03.2017 and therefore, their vehicles are liable to be registered. According to the respondents, in the light of the order passed by the Apex Court in Writ Petition (Civil) No.13029 of 1985 on 29.03.2017, the vehicles of the petitioners which are not conforming to BS IV Standards are not liable to be registered on or after 01.04.2017. It is stated that though registered dealers were permitted to apply on-line for temporary registration of the vehicles by furnishing the particulars of the vehicles sold by them, applications have not been received on-line for temporary registration of the vehicles purchased by the petitioners before 12.00 p.m. on 31.03.2017. In other words, according to the respondents, the vehicles of the petitioners are not vehicles purchased on or before 31.03.2017.

4. The operative portion of the order of the Apex Court dated 29.03.2017 which is part of the records

in W.P.(C).No.12416 of 2017 reads thus:

*Accordingly, for detailed reasons that will follow, we direct that :

- (a) On and from 1st April, 2017 such vehicles that are not BS-IV complaint shall not be sold in India by any manufacturer or dealer, that is to say that such vehicles whether two wheeler, three wheeler, four wheeler or commercial vehicles will not be sold in India by any manufacturer or dealer on and from 1st April, 2017.
- (b) All the vehicle registering authorities under the Motor Vehicles Act, 1988 are prohibited for registering such vehicles on and from 1st April, 2017 that do not meet BS-IV emission standards, except on proof that such a vehicle has already been sold on or before 31st March, 2017.

As mentioned above, detailed reasons for the above order will be given in due course."

It is clear that from the extracted portion of the order that there is no prohibition in registering the vehicles sold on or before 31.03.2017. It is a fact that in the light of the said order of the Apex Court, there has been frenetic clearance sale of BS III vehicles on 31.03.2017. The Motor Vehicles Department had also made arrangements for the temporary registration of such vehicles. The petitioners blame the dealers for not submitting the on-line applications in respect of their vehicles before 12.00 p.m. on 31.03.2017. The dealers, in turn, blame the

Department stating that the server of the Department was slow on that day. Be that as it may, going by the order of the Apex Court referred to above, the petitioners who have purchased the vehicle on or before 31.03.2017 are entitled to get the said vehicles registered. The issue, therefore, is whether the petitioners have purchased the vehicles referred to in the writ petitions on or before 31.03.2017.

5. There cannot be any dispute to the fact that the sale of motor vehicles is governed by the Sale of Goods Act. Going by Section 5 of the Sale of Goods Act, a contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. Section 20 of the Sale of Goods Act provides that where there is an unconditional contract for sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment of the price or the time of delivery of goods, or both, is postponed. The registration

is a requirement to be complied with under the Motor Vehicles Act after the sale. The temporary registration of a vehicle is not a mandatory requirement of the Motor Vehicles Act. [See **Muhammed v. Joint R.T.O.** (2012(2) KLT 78)]. As such, merely for the reason that temporary registration has not been obtained in respect of a vehicle, it cannot be contended that there was no sale at all. A policy of insurance to cover third party risks is mandatory under the Motor Vehicles Act. Such policies are to be taken from authorised insurers under the Motor Vehicles Act. Certificates of insurance are issued by the authorised insurers based on contracts entered into by them with the owners of the vehicle. As such, if an authorised insurer has issued a certificate of insurance in respect of a vehicle, it can be presumed that there is a concluded sale of the vehicle in favour of its owner. In the circumstances, I deem it appropriate to pass an interim order directing the Registering Authorities to register the vehicles covered by invoices and certificates of insurance


issued by authorised insurers on or before 31.03.2017.

Ordered accordingly. It is, however, made clear that the registration of the vehicles based on this order will be subject to the outcome of the writ petitions.

True Copy

Sd/-

P.B.SURESH KUMAR, JUDGE



ASSISTANT REGISTRAR

Jestafin