

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

OP(C).No. 3099 of 2014 (O)

(OS 591/2008 of SUB COURT, PALAKKAD)

PETITIONER:

SELVARAJ, S/O.PONNUSWAMY,
KOTTATHARA NAIKARUPADI, MANNARKKAD,
PALAKKAD.

BY ADV. SRI.A.N.RAJAN BABU

RESPONDENTS:

1. SEBSTIAN @ DEVASSIKUTTY
S/O.KUNJACKO, KAJOORKARA, PALLIPADAM VEEDU,
KIZHAKKUM BHAGAM VILLAGE, ALWAYE TALUK,
ERNAKULAM DISTRICT - 682 019.
2. P.C CHACKO, AGED 58 YEARS
S/O.KUNJACKO, KANJOORKARA, PALLIPADAM VEEDU,
KIZHAKKUMBHAGAM(VILLAGE), ALUVA TALUK,
ERNAKULAM - 682 019.
3. M.PRABHA SANKAR
ADVOCATE RECEIVER, 15/81, AMBATHY COLONY COURT ROAD,
SULTANPET, PALAKKAD - 678 580.

R3 BY ADV. SRI.P.R.VENKETESH
R1& R2 BY ADV. SRI.K.MOHANAKANNAN
R1& R2 BY ADV. SMT.A.R.PRAVITHA

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 20-02-2015
ALONG WITH O.P.(C) No.13/2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

OP(C).No. 3099 of 2014 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 TRUE COPY OF THE COMMON JUDGMENT DATED 20-01-2010 IN
O.S NO 590/2008 AND O.S.591/2008 OF THE SUB ORDINATE
JUDGE, PALAKKAD.

EXHIBIT P2 TRUE COPY OF FIR IN CRIME No.540/2014 OF AGALI POLICE
STATION.

EXHIBIT P3 TRUE COPY OF REPORT NO.6/2014 DATED 10-11-2014 FILED
BY 3RD RESPONDENT ADVOCATE RECEIVER.

EXHIBIT P4 TRUE COPY OF THE RECEIPT NO.7/2014 DATED 28-11-2014
FILED BY 3RD RESPONDENT ADVOCATE RECEIVER.

EXHIBIT P5 TRUE COPY OF THE ORDER IN REPORT No.7/14 DATED
08-12-2014 BY SUB JUDGE (ADDL) PALAKKAD.

EXHIBIT P6 TRUE COPY OF THE ORDER IN REPORT NO 6/14 BY SUB JUDGE
(ADDL), PALAKKAD.

RESPONDENTS' EXHIBITS: NIL.

// True Copy //

P.A. to Judge.

smp

P.BHAVADASAN, J.

**Original Petition (Civil) Nos.3099 OF 2014 &
13 OF 2015**

Dated this the 20th day of February, 2015.

J U D G M E N T

The petitioner in O.P.(C) No.3099/2014 was carrying on cultivation in the properties under the Receiver and due to misutilisation of electricity, Receiver filed reports as report Nos.6 and 7 of 2014. In report No.6, it is submitted that the plaintiff in the suit, who is the petitioner in O.P.(C) No.3099/2014, has been arrayed as accused for an offence under Section 135 of the Indian Electricity Act. The court concerned, after taking note of the fact that Crime No.540/2014 of Agali Police Station was registered against the plaintiff, found that there is nothing to suspect the statement made by the Receiver and granted permission to the Receiver to terminate the licence of the petitioner in O.P.(C) No.3099/2014. The said order is challenged in O.P.(C) No.3099/2014.

2. In O.P.(C) No.13/2015, the limited prayer is to disqualify

the 1st respondent therein, who is the petitioner in O.P.(C) No.3099/2014, from participating in the future auctions which is objected to by the petitioner in O.P.(C) No.3099/2014. It is submitted that after having found the 1st respondent an accused in an offence under the Electricity Act, it will not be appropriate for this Court to allow him to participate in the auction. It is also pointed out that huge amounts are due as arrears from the 1st respondent and such a person shall not be allowed to participate in the auction.

3. Since there was dispute as to whether any amount remained to be paid, this Court called for a report from the court concerned. This Court is informed that a sum of Rs.85,000/- for the year 2014 is due and no payments are made for January and February of this year also.

4. In the light of the fact that the petitioner was found to have been indulged in questionable activities, his licence was rightly terminated as per order in report No.6/2014. As per report No.7, auction has been directed by the court below.

5. In the light of the fact that the petitioner in O.P.(C) No.3099/2014 has been found to be incompetent due to the fact that he is indulged in questionable activities and also due to the fact that he has not paid the arrears due from him, it is only appropriate that he be prevented from taking part in the auction.

Accordingly, impugned orders in O.P.(C) No.3099/2014 are confirmed and O.P.(C) No.13/2015 is allowed. The 1st respondent in O.P.(C) No.13/2015 is disqualified from participating in the auction if any to be conducted by the Receiver. The Receiver may take such steps as are necessary for preservation of the property.

Sd/-

**P.BHAVADASAN
JUDGE**

smp