

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

W.A.No. 577 of 2009 (C) IN WP(C)4208/2009

AGAINST THE ORDER IN WP(C) 4208/2009 of HIGH COURT OF KERALA DATED 11-02-2009

APPELLANTS/PETITIONERS:

1. THOMAS ISSAC AND OTHERS
HOUSE, NEDUMKANDAM, UDUMBANCHOLA
IDUKKI.
2. P.A.JINSON, POWATH, NEDUMKANDAM,
IDUKKI.
3. JACOB K.K., KANIKATHOTTU,
KATTAPPANA, IDUKKI.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS/RESPONDENTS::

1. THE KHADI AND VILLAGE INDUSTRIES BOARD
THIRUVANANTHAPURAM REPRESENTED BY ITS SECRETARY.
2. PROJECT OFFICER, DISTRICT KHADI AND
VILLAGE INDUSTRIES, IDUKKI.
3. THE DEPUTY TAHSILDAR (RR),
UDUMBANCHOLA, IDUKKI.
4. THE PRINCIPAL SECRETARY, REVENUE
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

R, R1 & 2 BY ADV. SRI.K.P.HARISH,SC,KERALA KHADI BOARD
R, R3,4 BY ADV. GOVERNMENT PLEADER SRI.ROSE MICHAEL

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 12-06-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1: TRUE COPY OF THE PROCEEDINGS OF THE RDO, DEVIKULAM DATED 9.5.2005.

ANNEXURE 2: TRUE COPY OF THE CIRCULAR DATED 6.3.2008 OF THE REVENUE DEPARTMENT.

ANNEXURE 3: TRUE COPY OF THE PETITION WITH THE FORWARDING LETTER TO THE DISTRICT COLLECTOR, IDUKKI.

RESPONDENT'S ANNEXURES:

ANNEXURE R3(A): A COPY OF THE APPLICATION DATED 16.7.003 FILED BY SRI.THOMAS ISSAC.

ANNEXURE R3(B): A COPY OF THE GOVERNMENT LETTER DATED 14.10.2003.

// TRUE COPY //

P.A.TO JUDGE

ANTONY DOMINIC & SHAJI P.CHALY, JJ.

Writ Appeal No.577 of 2009

Dated this the 12th day of June, 2015

JUDGMENT

Antony Dominic, J.

The writ appeal is filed by the petitioners in Writ Petition No.4208/09, challenging the interim order dated 11.2.2009 in which the learned Single judge stayed the revenue recovery proceedings against the appellants on condition that they deposit an amount of Rs.3,00,000/-. In the writ appeal, appellants contend that the loan availed of from the first respondent was for the purpose of a trust and that the amount, if any, due from the trust cannot be recovered from them individually as they have no personally liability on that behalf. It is on that premise, the appeal is filed.

2. Having heard the counsel for the parties and also going through the memorandum regarding mortgage by deposit of title deed and articles of agreement made between the appellants and the first respondent on the 30th of December 1996, prima facie, we are satisfied that the signatories to the agreements, who are the appellants herein have personally undertaken the liability in the event of default by the first respondent. It was in such a situation that in exercise of his discretionary powers, the learned Single

Judge has imposed a condition requiring the appellants to deposit Rs.3,00,000/- while staying the revenue recovery proceedings against them. This order, in our view, is not one which is liable to be upset in an appeal. Appeal therefore fails and it is dismissed. It is made clear that this judgment shall not prejudice the case of the appellants in urging their contentions in the writ petition.

Writ appeal is dismissed.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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