

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WA.No. 1163 of 2009

AGAINST THE JUDGMENT IN WP(C) 9540/2009 OF THIS HONOURABLE COURT.
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APPELLANT(S)/RESPONDENTS 1 & 2 IN THE WPC:

- 1. THE DEPUTY TAHSILDAR(R.R),
KOZHIKODE.**
- 2. THE VILLAGE OFFICER, VAVADU,
KOZHIKODE.**

BY SENIOR GOVERNMENT PLEADER SRI.P.IDAVIS

RESPONDENT(S)/PETITIONER & 3RD RESPONDENT IN THE WPC:

- 1. K.NARAYANAN NAIR, KAYAMMAKAL HOUSE,
VALIYAPARAMBA, KODUVALLY, KOZHIKODE.**
- 2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS
WELFARE FUND BOARD, KOZHIKODE.**

**R1 BY ADVS. SRI.V.RAJENDRAN
SRI.V.RAJENDRAN (B/O)
R2 BY SRI.P.RAMAKRISHNAN, SC**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 28-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

mbr/

ASHOK BHUSHAN, Ag.C.J.
&
A.M. SHAFFIQUE, J.
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W.A. No. 1163 of 2009
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Dated this the 28th day of January, 2015

JUDGMENT

A.M.Shaffique, J.

This is an appeal filed by respondents 1 and 2 in the Writ Petition challenging judgment dated 25.03.2009 in WP(C) No.9540 of 2009.

2. By the impugned judgment, the learned Single Judge directed Ext.P1 revenue recovery notice to be kept in abeyance on condition that the petitioner remits the entire amount due with interest in six equal monthly instalments. However, in the latter portion of the judgment, the learned Single Judge observed that since the authorities have not taken any steps apart from issuing notices under Section 7 or Section 34 of the Revenue Recovery Act, the petitioner need not pay collection charges.

3. Heard the learned Government Pleader as well as the learned counsel appearing for the writ petitioner.

4. The learned Government Pleader refers to the reliefs sought for in the Writ Petition and the grounds taken by the writ petitioner and submits that the petitioner never had a case that he is not liable to pay any collection charges. In that view of the matter, there was no reason for directing that the petitioner need not pay the collection charges. Even otherwise, as per Rule 5(3) of the Kerala Revenue Recovery Rules, 1968, if the payment is directly made to the requisition authority, the petitioner shall be liable to pay the collection charges of 1%.

5. The learned counsel for the writ petitioner submits that the payment had already been remitted directly to the requisitioning authority. Under such circumstances, if at all there is an obligation to pay collection charges the liability of the petitioner is limited

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to 1% of the amount involved in the matter. In fact being a statutory obligation, the same cannot be waived by the Court.

Under such circumstances, the direction issued by the learned Single Judge to the extent stating that the petitioner need not pay collection charges is hereby set aside and the writ appeal is allowed, accordingly.

Sd/-
ASHOK BHUSHAN,
ACTING CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

das