

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WA.No. 533 of 2008 ()

(AGAINST THE JUDGMENT IN OP.NO. 34123/2000 DATED 23-03-2007)

APPELLANT/PETITIONER:

**THE TRAVANCORE RUBBER & TEA CO.LTD.,
PATTON PALACE P.O., TRIVANDRUM -695 004,
REPRESENTED BY ITS DIRECTOR,
SHRI.S.RAMAKRISHNA SARMA.**

**BY ADVS.SRI.JOSEPH KODIANTHARA
SRI.TERRY V.JAMES**

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA,
REP.BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.**
- 2. STATE OF KERALA,
REP.BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF LABOUR,
GOVERNMENT SECRETARIAT, TRIVANDRUM.**
- 3. THE LABOUR COMMISSIONER, TRIVANDRUM.**
- 4. THE REGIONAL JOINT LABOUR COMMISSIONER,
KAKKANAD, ERNAKULAM.**
- 5. THE SUPERINTENDENT OF POLICE, IDUKKI.**
- 6. THE DEPUTY SUPERINTENDENT OF POLICE,
KATTAPANA.**
- 7. THE DEPUTY SUPERINTENDENT OF POLICE,
KANJIRAPPALLY.**
- 8. THE CIRCLE INSPECTOR OF POLICE,
PEERMADE.**
- 9. THE CIRCLE INSPECTOR OF POLICE,
PONKUNMNAM.**

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10. THE SUB INSPECTOR OF POLICE,
PERUVANTHANAM.
11. THE SUB INSPECTOR OF POLICE,
MUNDAKKAYAM.
12. THE GENERAL SECRETARY, HEL UNION,
(AITUC), REGD.NO.103/65, PEERMADE P.O.
13. THE GENERAL SECRETARY, MR.P.D.GEORGE,
THIRUKOCHI THOTTAM THOZHILALY UNION (INTUC),
MUNDAKKAYAM P.O.
14. THE SECRETARY, HILLRANGE ESTATE
EMPLOYEES ASSOCIATION (CITU),
MUNDAKKAYAM P.O.
15. THE GENERAL SECRETARY, KERALA STATE
ESTATE LABOUR UNION (INTUC), PEERMADE P.O.
16. GENERAL SECRETARY, MR.THOMAS KALLADAN,
THIRUKOCHI THOTTAM THOZHILALY UNION (INTUC),
MUNDAKKAYAM P.O.

R1 TO R11 BY SR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER
R12 BY ADV. SMT.A.K.PREETHA
SRI.M.R.RAJESH
BY ADV.SRI.C.R.RADHAKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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**ANTONY DOMINIC &
ALEXANDER THOMAS, JJ.**

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W.A No.533 of 2008

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Dated this the 17th day of March, 2015

JUDGMENT

Antony Dominic, J

This writ appeal is filed by the petitioner in O.P No.34123 of 2000, which was disposed of by a learned Single judge by judgment dated 23.03.2007. In the judgment under appeal, the appellant sought mainly to quash Exts.P12, P13 and P14, the bills issued by the respondents for realising the charges towards deploying police force for the protection of the appellant in pursuance to the orders passed by this Court in O.P No.1500 of 2000 and Ext.P11 order passed in Contempt of Court Case No.73 of 2000. The learned Single Judge declined to set aside the bills as prayed for but, however, reduced the demand to 1/3 of the amount demanded.

2. Briefly stated the facts of the case are that in relation to the demand for bonus, there were disputes between the management and Unions in the appellant's estate, which arose

during the year 1998 -1999. On account of the agitation, the estate was finally locked out with effect from 10.01.2000.

3. Subsequently, the appellant filed O.P No.1500 of 2000, in which Exts.P1, P2, P4 and P7 interim orders were passed by this Court granting police protection, not only for the officers, staff, property but also for the removal of finished products. According to the appellant, despite the orders passed, police were not deputed in sufficient numbers and therefore, extensive damages were caused by the workers. They therefore filed C.M.P No.14774 of 2000 praying for the appointment of an Advocate Commissioner to conduct an inspection and to file a report with the assistance of an expert from the Rubber Board about the illegal tapping and theft of latex that has taken place in the estate. In that C.M.P, this Court passed Ext.P6 order appointing an Advocate Commissioner to submit a report with the assistance of Joint Director, Exploitation Department of Rubber Board. Based on the above order, the Advocate Commissioner and the expert inspected the estate of the appellant and submitted Ext.P10 reports, which show that the loss caused was estimated at Rs. 8.64 Crores.

4. In the meanwhile, appellant filed Contempt of Court Case No.73 of 2000 before this Court complaining that the respondents did not comply with the orders passed by this Court. In that Contempt of Court Case, this Court passed Ext.P11 order recording the submission of the State that if the appellant agrees to pay the cost for providing security, immediate steps shall be taken. This order also records the submission on behalf of the appellant that cost as suggested by the Government shall be paid on intimation.

5. Subsequently, the appellant says that they were issued three bills demanding a total amount of Rs.55,27,560/-. Ext.P12 bill demanding Rs.14,36,560/- was for the period 14.01.2000 to 20.02.2000. Ext.P13 bill for the period from 21.02.2000 to 10.04.2000 is for an amount of Rs.20,46,240/-. Similarly, Ext.P14 bill issued for the period 11.04.2000 to 31.05.2000 is for Rs.20,44,720/-. Though, according to the learned Government Pleader, yet another bill was issued and that the total amount demanded was Rs.76,58,440/-, the appellant has produced and challenged only Exts.P12, P13 and P14 bills mentioned above. It

was considering the above case the learned Single Judge, though upheld the demand for police protection charges, reduced the liability to 1/3.

6. We heard the learned counsel for the appellant, learned Government Pleader appearing for respondents 1 to 11 and the learned counsel appearing for the 12th respondent. Insofar as this appeal is concerned, this Court is only concerned with the validity of Ext.P12, P13 and P14. It is true that police protection, which according to the respondents, extended to the appellant was pursuant to the interim orders passed by this Court in O.P No.1500 of 2000. However, the unsatisfactory nature of the police deployment that was made is evident from Ext.P10 report, which as we have already stated, estimate the damage suffered by the appellant at Rs.8.64 Crores.

7. Be that as it may, coming to the validity of Exts.P12, P13 and P14 bills, as far as Ext.P12 is concerned, i.e., for the period 14.01.2000 to 20.02.2000. For two reasons we are not inclined to make the appellant liable for the amount demanded in Ext.P12. First one is the unsatisfactory deployment of the police force and

protection that was afforded to the appellant resulting in an estimated loss of Rs.8.64 Crores. Secondly, the appellant agreed for payment of the bill amount only in Ext.P11 order, which was passed on 21.02.2000 and that undertaking cannot bind the appellant for any period prior thereto. Since Ext.P12 bill is for a period prior to Ext.P11, Ext.P11 cannot justify Ext.P12 also. Therefore, Ext.P12 cannot be sustained and we hold so.

8. Insofar as Exts.P13 and P14 are concerned, even if it is true that any loss has occurred as claimed by the appellant in view of the undertaking given in Ext.P11 order dated 21.02.2000, as these bills are for the period subsequent thereto, the appellant cannot escape from the liability. On the other hand, if loss was caused during the period of police protection either due to the negligence of the police force deployed or for any other reason, the remedy of the appellant is to sue for damages and which remedy has been given by the appellant.

9. In such circumstances, we confirm the liability of the appellant under Exts. P13 and P14, which has been reduced by the learned Single Judge to 1/3. The State has also not challenged

this reduction by the learned Single Judge.

10. In the result, this writ appeal is disposed of, modifying the judgment of the learned Single Judge and quashing Ext.P12 and confirming the finding of the learned Single Judge insofar as the amount covered by Exts.P13 and P14 are concerned.

Writ Appeal is disposed of.

Sd/-
ANTONY DOMINIC(JUDGE)

Sd/-
ALEXANDER THOMAS (JUDGE)

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