

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WA.No.28 of 2015 IN WP(C).24260/2013

AGAINST THE JUDGMENT IN WP(C) 24260/2013 of HIGH COURT OF KERALA
DATED 04-10-2013

APPELLANT/PETITIONER:

DRAVYAN,
S/O RAMANKUTTY, KARIYAKUNNATH HOUSE, KOORKKAPARAMB
THIRUVEGAPPURA, PALAKKAD

BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.V.A.JOHNSON (VARIKKAPPALLIL)
SRI.UNNI SEBASTIAN KAPPEN

RESPONDENTS/RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
EXCISE DEPARTMENT, 695001
 2. THE COMMISSIONER OF EXCISE,
EXCISE COMMISSIONERATE, THIRUVANANTHAPURAM-695001
 3. DEPUTY COMMISSIONER OF EXCISE,
PALAKKAD 678001
 4. EXCISE CIRCLE INSPECTOR,
OTTAPPALAM 679001

R1 TO R4 BY SENIOR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.

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Dated this the 9th day of February, 2015.

J U D G M E N T

Antony Dominic, J.

The petitioner in W.P.(C).No.24260/2013 is the appellant. He filed the writ petition challenging Exts.P5 & P6 by which he was informed by the 3rd respondent that his request for release of the title deeds deposited as security for conducting toddy shop Nos.128 - 133 of Pattambi Excise Range could not be granted until the criminal case pending against him is over. The writ petition was dismissed by the learned Single Judge vide judgment dated 4.10.2013, only on the ground that the challenge against Exts.P5 & P6 which are dated 13.8.2012 & 11.10.2012 respectively, are belated. It is this judgment which is challenged before us.

2. We heard the learned counsel for the appellant and learned Government Pleader appearing for the respondents.

3. Admittedly, the title deeds in question were deposited by the appellant in connection with licence granted to him in relation to toddy shop Nos.128 - 133 of Pattambi

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Excise Range for the year 2000-2001. The reason for withholding the title deeds is that he is an accused in Malappuram liquor tragedy, which has nothing to do with the licence granted. This therefore shows that title deeds were withheld on the ground that the appellant is implicated as an accused in a case which has no connection with the licence granted to him, in relation to which the title deeds were deposited. The respondents have not shown any provision of law which enabled them to withhold title deeds deposited by the appellant. In such circumstances, the withholding of title deeds cannot be justified.

4. We are also not in a position to agree with the learned Single Judge that the writ petition filed by the appellant in October, 2013 was so belated to deny the legal right of the appellant or to deprive of his right to property envisaged under Article 300 A of the Constitution. Further retaining the title deeds is a continuing cause of action which also entitles the appellant for the reliefs prayed for.

5. In such circumstances, the judgment passed by the learned Single Judge is set aside. Exts.P5 & P6 are quashed

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and the respondents are directed to release the title deeds deposited by him in connection with the licence granted to the appellant in respect of toddy shop Nos. 128 - 133 of Pattambi Excise Range for the year 2000-2001.

The writ appeal is disposed of as above.

**Sd/-
ANTONY DOMINIC,
Judge.**

**Sd/-
ALEXANDER THOMAS,
Judge.**

Bkn/-

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P.A to Judge.