

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI**

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WA.No. 324 of 2015 () IN WP(C).5473/2012

**AGAINST THE ORDER/JUDGMENT IN WP(C) 5473/2012 of HIGH COURT OF KERALA
DATED 29/10/2014**

APPELLANT(S)/PETITIONER:

**HARIJAN VANITHA KAITHARAI NAITHU THOZHILALI VYAVASAYA
SAHAKARANA SANGHAM LTD.NO.HL INDUSTRIES M5,
P.O.KERALADHEESWARAPURAM
VIA THANALUR,
MALAPPURAM 676 307
REPRESENTED BY ITS PRESIDENT.**

**BY ADVS.SRI.P.V.SURENDRANATH
SMT.BINDUMOL JOSEPH
SRI.B.S.SYAMANTHAK**

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO REVENUE DEPARTMENT
GOVERNMENT SECRETRIAT, THIRUVANANTHAPURAM-1.**
- 2. THE REVENUE DIVSIONAL OFFIER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER, TIRUR
MALAPPUARAM-676 101.**
- 3. TAHSILDAR
REVENUE RECOVERY, TALUK OFFICE, TIRUR-676 101.**
- 4. P.VENUGOPALAN
TEACHERS' LODGE, NEAR SMUP SCHOOL
KERALADEESWARAPURAM POST, THANALUR
MALAPPURAM-676 307.**
- 5. RAMACHANDRAN
S/O.KANNAN, ARAPPUZHAKKAL, KERALADEESWARAPURAM POST
THANALUR, MALAPPURAM-676 307.**

**BY SR GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN
R4 BY SRI.K.K.MOHAMED RAVUF**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ANTONY DOMINIC & A.V.RAMAKRISHNA PILLAI, JJ.

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Writ Appeal No. 324 of 2015

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Dated this the 12th day of February, 2015

J U D G M E N T

Antony Dominic, J.

This appeal is filed against the judgment of the learned single Judge in WP(C) No. 5473/2012. The said writ petition was filed by the appellant challenging Exts.P1 and P3, by which recovery proceedings were initiated against them. The writ petition was dismissed with exemplary cost of ₹25,000/- to be recovered from the sale proceeds in the recovery proceedings and to be paid to the 4th respondent along with applicable interest as provided in the judgment. It is aggrieved by this judgment, this appeal is filed.

2. We heard the learned counsel for the appellant and the learned counsel appearing for the 4th respondent.

3. Although various contentions have been raised, reading of the judgment itself shows that various reasons have been assigned by the learned single Judge justifying the directions issued by him. One justification is that there was gross suppression of facts on the part of the appellant and it was only from the counter affidavit filed

by the 4th respondent that the learned Judge could find out the facts which resulted in the impugned recovery proceedings.

4. This was a case where the 4th respondent was dismissed in 1998 from the services of the appellant and award was passed in his favour in 2001 and various challenges were made against the award. Instead of opportunities given by this Court, none of these opportunities were availed of by the appellant and as a result, the compensation remains unpaid even till 2010-11. It was even thereafter that when recovery proceedings were initiated, suppressing material facts, the writ petition in question was filed. It was in this background, the learned single Judge ordered payment of interest and exemplary cost of ₹25,000/-.

5. We do not think that in a case of this type, learned single Judge has committed any illegality in issuing the impugned judgment.

6. Writ appeal is dismissed.

However, we clarify that in the event, the appellant discharges the entire liability due under the judgment within eight

W.A.No.324/15

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weeks from today and if the sale which is already conducted has not so far been confirmed, the same shall not be confirmed for the aforesaid purpose.

Sd/-
ANTONY DOMINIC
JUDGE

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

Rp