

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 2347 of 2010 (P)

PETITIONER:

K.C.RAJAN, S/O. KUNNIYARA CHENNAN KUTTY,
SREE NARAYANAPURAM VILLAGE, KODUNGALLUR TALUK.

BY ADVS.SRI.T.A.SHAJI
SMT.S.SHEEJA KUMARY(AYOOR)
SMT.MALU JOHN

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO THE GOVERNMENT OF KERALA
THIRUVANANTHAPURAM.
2. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM.
3. THE DEPUTY EXCISE COMMISSIONER,
THRISSUR.

R,R1-3 BY ADV. SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-10-2015, ALONG WITH WPC. NOS. 2381 & 7566 OF 2010,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE COMMON JUDGMENT DATED 05.03.2009 OF THE SUPREME COURT.
- EXT.P2 : TRUE COPY OF THE G.O.(MS) NO. 108/08/TD DATED 26.05.2008.
- EXT.P3 : TRUE COPY OF THE REQUEST DATED 09.03.2009 SUBMITTED BY THE PETITIONER TO REFUND THE EXCESS AMOUNT AND TO RETURN THE TITLE DEEDS OF THE PROPERTIES AND OTHER DOCUMENTS DEPOSITED.
- EXT.P4 : TRUE COPY OF THE JUDGMENT DATED 26.06.2009 IN W.P. (C) NO. 17359/2009 OF THIS HON'BLE COURT.
- EXT.P5 : TRUE COPY OF THE ORDER NO.R6-314/DATED 07.08.2009 ISSUED BY THE 3RD RESPONDENT.
- EXT.P6 : TRUE COPY OF THE STATEMENT OF ACCOUNT FURNISHED BY THE PETITIONER.
- EXT.P7 : TRUE COPY OF THE JUDGMENT DATED 23.11.2009 IN W.P. (C) NO. 23850/09 OF THIS HON'BLE COURT.
- EXT.P8 : TRUE COPY OF THE ORDER NO.R6-314/1998 DATED 12.1.2010 ISSUED BY THE 3RD RESPONDENT ALONG WITH DCB STATEMENT.
- EXT.P9 : TRUE COPY OF THE REQUEST DATED 02.03.2010 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.
- EXT.P10 : TRUE COPY OF THE COMMUNICATION DATED 04.03.2010 ISSUED BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS:

- EXT.R3(a) : TRUE COPY OF THE DCB STATEMENT.

//TRUE COPY//

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P. (C) Nos. 2347, 2381 & 7566 of 2010

Dated this the 21st day of October, 2015.

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader, apart from perusing the record.

2. In all the three writ petitions, the petitioners, similarly placed, have an identical grievance against a common set of respondents. Accordingly, this Court has proposed to dispose of the writ petitions through a common judgment. For the narrative purpose, the facts as pleaded in W.P.(C) No. 2347 of 2010 are taken as the basis.

3. The petitioner was the licensee to vend toddy during the abkari years 1997–2000. When the petitioner was carrying on the business; in the very first year, a crime was registered against him for the alleged violation of the licence conditions. And, as a result, the licence, too, was cancelled.

4. In the course of time, after the cancelling of the licence, the Government demanded the kist from the petitioner, for the entire period of three years, though the initial licence had been granted for one year. The demand seems to be based on the permanent agreement for three years. The fact, however, remains that the

crime that had been registered against the petitioner also ended in acquittal.

5. Aggrieved by the Government's demand for the kist for the entire period of three years, the petitioner, like many other similarly placed persons, filed a writ petition. All the matters were eventually taken to the Apex Court, which rendered Ext.P3 judgment. The decision is to the effect that the licencees whose licence had been cancelled were liable to pay the kist only for the year when the licence had been subsisting, and that the security amount paid earlier by the licencees should be adjusted towards the kist for the licensing year.

6. The Government did comply with Ext.P3 judgment.

7. At any rate, the petitioner has demanded that the kist should be reckoned only up to the point of the actual cancellation of the licence, rather than for the entire licence-year. Accordingly, staking a claim that the Government should refund the balance amount, apart from returning the title deeds pledged by the petitioner earlier with the Government, he has filed W.P.(C) No. 2347 of 2010. The petitioners in the other two writ petitions also have similar claims.

8. Evidently, having realised the futility of their demand, the petitioners are said to have paid the entire balance amounts, as was

demanded by the Government after adjusting the security deposits. Later, in compliance with the direction given by this Court, the Government filed a statement on 05.08.2015 that the petitioner had paid the entire amount.

9. In the above factual backdrop, Sri. T.A. Shaji, the learned Senior Counsel for the petitioners, has submitted that nothing survives in the lis, and that this Court may dispose of all the three writ petitions with a direction to the respondent Government to return the petitioners' title deeds.

10. The learned Government Pleader, on his part, has submitted that the Government has no objection to return the title deeds.

In the facts and circumstances, having regard to the respective submissions of the learned Counsel for the petitioners and the learned Government Pleader, this Court disposes of the writ petitions with a direction to the respondents to return to the petitioners their documents, including the title deeds, solvency certificate etc., as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

