

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI**

**FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937**

**WP(C). No.3222 of 2009 (H)**  
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**PETITIONER(S):**  
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- 1. V.JAGADEESAN ACHARY, 'ARAVINDAM',  
SOOLAMKUDY, POOVAR P.O., THIRUVANANTHAPURAM.**
- 2. K.SASIDHARAN, BINDU BHAVAN,  
ELAMPAL P.O., PUNALUR.**

**BY ADV. SRI.ELVIN PETER P.J.**

**RESPONDENT(S):**  
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- 1. KERALA STATE HUMAN RIGHTS COMMISSION,  
M.P.APPAN ROAD, VAZHUTHACAUD, THIRUVANANTHAPURAM-14,  
REPRESENTED BY ITS REGISTRAR.**
- 2. THE DEPUTY COMMISSIONER OF EXCISE,  
SOUTH ZONE, THIRUVANANTHAPURAM.**
- 3. SRI.JAYAMOHAN, PRESIDENT,  
HUMAN RIGHTS PROTECTION COUNCIL, AHARA BUILDINGS,  
D.C.ROAD, ALAPPUZHA-1.**
- 4. DR.G.SAMUEL, SECRETARY,  
HUMAN RIGHTS PROTECTION COUNCIL, AHARA BUILDINGS,  
D.C.ROAD, ALAPPUZHA-1.**
- 5. S.SUBHASH BABU, S/O.NARAYANAN,  
MANIYARMURI, PUNALUR MUNICIPALITY,  
PATHANAPURAM TALUK, KOLLAM.**

**BY GOVERNMENT PLEADER SRI.REJI JOSEPH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-11-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(C). No.3222 of 2009 (H)**

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

- P1:- COPY OF THE REPORT SUBMITTED BY THE DEPUTY COMMISSIONER OF EXCISE, SOUTH ZONE DATED 17.4.2006.**
- P2:- COPY OF THE SUMMONS ISSUED TO THE PETITIONERS BY THE 1ST RESPONDENT IN HRMP NO.5062/2008 DT.24.11.2008.**
- P3:- COPY OF THE COMPLAINT, HRMP NO.5062/2008, FILED BY RESPONDENTS 3 AND 4 BEFORE THE FIRST RESPONDENT DATED 22.10.2008.**

**RESPONDENTS' EXHIBITS:-NIL**

**KRJ**

**//TRUE COPY//**

**P.A TO JUDGE**

**A.V.RAMAKRISHNA PILLAI, J.**

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W.P(C) No.3222 of 2009

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Dated this the 20<sup>th</sup> day of November, 2015

**JUDGMENT**

No representation for the petitioners.

2. This writ petition is filed for quashing Exts.P2 and P3, and for restraining the first respondent from inquiring into the allegations contained in Ext.P3. The petitioners also prayed for a declaration that Ext.P3 complaint filed by respondents 3 and 4 is not maintainable under Section 36 of the Protection for Human Rights Act, 1993.

3. The petitioners allege that from the admitted allegation contained in Ext.P3 it is clear that the alleged incident constituting violation of human rights contained in Ext.P3 took place on 23.9.1998. It is also pointed out that Ext.P3 is admittedly filed on 22.10.2008 i.e. after more than 10 years and one month from the date on which the Act constituting violation of human rights alleged to have been committed by the petitioners. Therefore, according to the petitioners, it is clear that the first respondent is incompetent to take cognizance of Ext.P3 since Ext.P3 is not maintainable and Ext.P2 summons issued by the first respondent is without jurisdiction and Ext.P3 complaint filed by respondents 3 and 4 is not

maintainable, and the same is barred by limitation. It is also pointed out that there is an express bar against the first respondent in conducting any enquiry into any matter which is pending before the State Commission or any other Commission constituted under any law for the time being in force.

4. The petitioners allege that for possessing illicit arrack, a crime has been registered against the 5<sup>th</sup> respondent and S.C. No.1428/2002 is pending before the Special Court (Abkari Court), Kottarakkara. According to the petitioners, in the light of the express prohibition contained in Section 36(1), the first respondent is incompetent to enquire into the allegation contained in Ext.P3 since the issue is pending before the Special Court, Kottarakka. It is with these allegations, the petitioners have come up before this Court.

5. This Court by interim order dated 30.01.2009 observed that the petitioners shall raise their objections before the Commission.

Therefore, the writ petition is closed in the light of the above.

Sd/-  
**A.V.RAMAKRISHNA PILLAI**  
**JUDGE**

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