

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 1937

WP(C).No. 123 of 2015 (M)

PETITIONER(S):

**CHANDRASHEKHARA NAIK,
S/O.SUBBANNA NAIK, RESIDING AT KUNDERI HOUSE,
PERMUDE P.O., KUMBLA VIA, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.MADHU,
SRI.M.PRADEEP RAO.**

RESPONDENT(S):

- 1. THE BLOCK DEVELOPMENT OFFICER, MANJESHWAR,
OFFICE OF THE BLOCK DEVELOPMENT OFFICER, MANJESHWAR,
MANJESHWAR P.O., KASARAGOD DISTRICT-671 323.**
- 2. MANJESHWAR BLOCK PANCHYATH,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE SECRETARY,
MANJESHWAR BLOCK PANCHAYATH,
MANJESHWAR P.O., KASARAGOD DISTRICT-671 323.**
- 3. THE TAHSILDAR, REVENUE RECOVERY,
KASARAGOD DISTRICT-671 121.**
- 4. THE VILLAGE OFFICER,
KUDAL MERKALA VILLAGE, KASARAGOD TALUK,
KASARAGOD DISTRICT-671 324.**

R3 & R4 BY GOVT. PLEADER SMT.M.T. SHEEBA.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1. THE TRUE COPY OF THE NOTICE DATED 26/04/2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P2. THE TRUE COPY OF THE REPLY DATED 07/05/2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P3. THE TRUE COPY OF THE DEMAND NOTICE ISSUED UNDER SECTION 34 OF THE REVENUE RECOVERY ACT BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXT.P4. THE TRUE COPY OF THE DEMAND NOTICE DATED 15/11/2014 ISSUED BY THE 3RD RESPONDENT U/S. 7 OF THE REVENUE RECOVERY ACT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.123 of 2015

Dated this the 6th day of July, 2015

J U D G M E N T

The petitioner challenging revenue recovery proceedings has approached this Court.

2. The petitioner was the Convenor of the Beneficiary Committee formed for the purpose of digging a well at Permude under the Peoples Planning Programme of the Manjeshwar Block Panchayath for the year 1998-99.

3. For the purpose of implementing the project, the petitioner was advanced with an amount of ₹27,000/-. The petitioner was ordered to return this amount as per Ext.P1 dated 26.04.2014. The petitioner gave a reply to the Block Development Officer by Ext.P2 stating that, he is not liable to refund the amount, since he has expended more amount than he received. It appears that, the petitioner has not communicated with the outcome of his reply and thereafter, the petitioner has been served with Exts.P3 and P4 revenue recovery proceedings.

4. The petitioner's case is that, he has no liability as he has expended entire amount received for the purpose of digging well. It is also not discernible from Ext.P1 demand notice issued by the Block Development Officer that, how the petitioner is liable to pay the amount.

5. The liability if at all can be passed on the petitioner based on a cause against him. There must be a finding to the effect that, the petitioner is liable for any loss suffered by the Block Development Office. As seen from Ext.P1 itself, no reason has been stated for demanding the amount from the petitioner.

6. In that view of the matter, Exts.P3 and P4 revenue recovery proceedings are set aside. It is made clear that, any further proceedings against the petitioner can only be initiated after issuing notice to the petitioner and fixing a liability against him.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV