

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 290 of 2015 (I)

PETITIONER(S):

**VISWANATHAN R., AGED 44 YEARS,
SON OF RAGHAVAN, RESIDING AT KARTHIKA ILLAM,
VANDIPERIYAR, IDUKKI.**

**BY ADVS.SRI.JOHNSON GOMEZ
SRI.S.BIJU (KIZHAKKANELA)**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF LOCAL SELF GOVERNMENT INSTITUTIONS,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. VANDIPERIYAR GRAMA PANCHAYAT,
REPRESENTED BY THE SPECIAL GRADE SECRETARY,
OFFICE OF THE VANDIPERIYAR GRAMA PANCHAYAT,
VANDIPERIYAR, IDUKKI.**
- 3. TAHSILDAR (REVENUE RECOVERY),
PEERUMEDU TALUK, PEERUMEDU.**

**R1 & R3 BY GOVERNMENT PLEADER SMT.LILLY K.T.
R2 BY ADV. SRI.R.T.PRADEEP**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. A TRUE COPY OF THE RECEIPT NO.52 DATED 01.10.2004 ISSUED BY THE SECOND RESPONDENT.

EXHIBIT P2. A TRUE COPY OF THE REPRESENTATION DATED 12.01.2005 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXHIBIT P3. A TRUE COPY OF THE LETTER NUMBER 26069/E.U/LOCAL SELF GOVERNMENT DATED 13.05.2010 ISSUED BY THE FIRST RESPONDENT TO THE DIRECTOR OF PANCHAYAT.

EXHIBIT P3A. A TRUE COPY OF THE LETTER DATED 27.03.2006 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXHIBIT P4. A TRUE COPY OF THE DEMAND NOTICE NO.D4 4751/10 DATED 17.05.2010 ISSUED BY THE THIRD RESPONDENT.

EXHIBIT P5. A TRUE COPY OF THE SALE NOTICE NO.D4 4751/10 DATED 04.12.2014 ISSUED BY THE THIRD RESPONDENT.

EXHIBIT P6. A TRUE COPY OF THE RECEIPT NO.D4-4751/10 DATED 08.07.2011 ISSUED BY THE VILLAGE OFFICER, MANJUMALA VILLAGE.

EXHIBIT P7. A TRUE COPY OF THE REPRESENTATION DATED 03.01.2014 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXHIBIT P8. A TRUE COPY OF THE REPRESENTATION DATED 03.01.2014 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.290 OF 2015 (I)

Dated this the 11th day of November, 2015

J U D G M E N T

The petitioner approached this Court aggrieved by Ext.P3 sale notice issued by the 3rd respondent, under the Kerala Revenue Recovery Act, for recovery of amounts due from the petitioner to the 2nd respondent. The grievance of the petitioner in the writ petition is essentially that the amounts that are covered by the revenue recovery notice issued to the petitioner were not actually due from the petitioner to the 2nd respondent, inasmuch as the amounts were in respect of occupation of the building that was leased out to the petitioner by the 2nd respondent Panchayat, and it is the specific case of the petitioner that during the period in question, he did not actually occupy the premises. It is the case of the petitioner that he had vacated the premises on 31.3.2006, with notice to the Panchayat, and the room was remaining vacant till 2010 due to the inaction on the part of the 2nd respondent Panchayat to let out the rooms to anybody else. It is therefore that he contends that the recovery notice for recovery of an amount of Rs.2,57,000/- together with interest and

other charges is issued on a wrong premise and therefore ought to be quashed by this Court.

2. A counter affidavit has been filed on behalf of the 3rd respondent, wherein, it is stated that, on service of the demand notice on the petitioner, the petitioner had earlier approached the Revenue Minister, and as per the order dated 10.12.2012 of the Hon'ble Minister, the petitioner was granted an opportunity to remit 50% of the total dues by 10.01.2013, and the balance amounts in 20 equal monthly installments. It is stated that he did not comply with the said direction but once again approached the Government and obtained another order as per which, he was allowed to remit 50% of the total dues on or before 02.03.2013, and the balance amounts in 20 equal monthly installments. The petitioner apparently failed to comply with the said order also, and when a sale notice was issued in respect of the property, the petitioner again approached the Government and obtained an order of stay in 2014 which directed the petitioner to pay 30% of the total dues on or before 8.7.2014 and the balance amounts in 10 equal installments. The petitioner thereafter paid 30% of the dues on 11.7.2014 but did not comply with the remaining part of the order by paying the balance amounts in installments. It is under

these circumstances that the recovery proceedings are continued against the petitioner.

3. I have heard the learned counsel for the petitioner as also the learned Government Pleader for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that, although in the writ petition, the petitioner disputes the very liability, this is a case where on initial service of the demand notice on the petitioner, he did not dispute the liability but was seeking time for the discharge of the liability. Although he made various representations to the Government and was granted an installment facility on various occasions, he has paid only 30% of the demand outstanding against him at the balance amounts continued to be outstanding to the respondents. I am of the view that the petitioner cannot be heard to dispute the liability at this belated stage of the proceedings, more so because, when confronted with the demand notice on earlier occasions, he did not chose to challenge the liability. I therefore dispose the writ petition with the following directions:

(i) The total amount outstanding from the petitioner, as discernible from Ext.P4 notice, is an amount of Rs.2,57,600/- together with interest and other charges. It is stated that an amount of Rs.97,444/- has already been paid by the petitioner during the pendency of these proceedings. Accordingly, after giving credit to the payments effected by the petitioner, the balance amounts due to the petitioner shall be intimated to the petitioner within a week from the date of receipt of a copy of this judgment by the 3rd respondent. On receipt of the said intimation, the petitioner shall discharge the liability to the respondents in six equal and successive monthly installments commencing from 10.12.2015.

(ii) If the petitioner fails to comply with any of the directions, then he will lose the benefit of this judgment and the respondent will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE