

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 971 of 2015 (V)

PETITIONER(S):

- 1. BINOY FRANCIS, AGED 50 YEARS,
S/O.FRANCIS, ERIMANGALATHU HOUSE,
PATHANPARA P.O., VELLADU,
THALIPARAMBU TALUK, KANNUR DISTRICT.**
- 2. THRESSIAMMA FRANCIS, AGED 76 YEARS,
W/O.FRANCIS, ERIMANGALATHU HOUSE,
PATHANPARA P.O., VELLADU,
THALIPARAMBU TALUK, KANNUR DISTRICT.**

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
KANNUR - 670 001.**
- 3. THE SPECIAL DEPUTY TAHSILDAR (R.R.),
K.S.F.E.LIMITED, HASSAN ARCADE,
OPP. CIVIL STATION, KANNUR - 2.**
- 4. THE BRANCH MANAGER,
THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
ALAKKODE BRANCH, ALAKKOD P.O.,
KANNUR DISTRICT, PIN - 670 571.**

**R1 & R2 BY GOVERNMENT PLEADER SMT.M.T.SHEEBA
R3-R4 BY SRI.ALEXANDER.C.V., SC
BY ADV. SRI.V.N.SASIDHARAN., SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 971 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: TRUE COPIES OF THE STATEMENTS WITH REGARD TO THE LOAN
ACCOUNT NOS. 666 & 667 WRE ISSUED BY THE 4TH RESPONDENT.
- EXT.P2: TRUE COPY OF THE LETTER DATED 20/10/2014 OF THE
4TH RESPONDENT.
- EXT.P3: TRUE COPIES OF THE DEMAND NOTICES UNDER SECTION 7 OF THE
REVENUE RECOVERY ACT ISSUED TO THE 1ST PETITIONER.
- EXT.P4: TRUE COPIES OF THE NOTICES DATED 15/11/2014.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J.

W.P.(C). No. 971 of 2015

Dated this the 25th day of June, 2015

J U D G M E N T

The petitioners impugn the revenue recovery proceedings to recover the amounts due to KSFE.

2. The demand notices issued against the petitioners is produced as Ext.P4 series. There are two demands, one for a sum of ₹2,00,593/- and other is for ₹1,99,993/-.

3. The petitioners' case is that, they are entitled for credit of ₹2,07,152/- being the amount remitted towards chitty subscription. Therefore, it is submitted that they are only liable to pay amount after deducting ₹2,07,152/-

4. Now it is admitted that, the petitioners are entitled for credit of ₹2,06,324/-. In that view of the matter it is submitted by the learned counsel for the petitioners that, collection charges due under the revenue recovery proceedings can be only claimed deducting the amount of ₹2,06,324/-.

5. The learned counsel appearing for the institution submits that, the petitioners are liable to pay collection charges for the amount demanded as credit was given only subsequently.

6. I am of the view that, when demand itself was raised the petitioners were entitled for the amount. The respondents ought to have given credit of the amount due to the petitioners while raising the demand. In that view of the matter, collection charges, if any, can be levied only in respect of the amount deducting ₹2,06,324/-.

7. The petitioners further submit that they may be given opportunity to pay off the entire liability in 25 instalments.

8. The learned counsel for the institution opposed that prayer.

9. Taking into the facts and circumstances, the petitioners have given 15 months instalments to discharge the entire amount starting from 20.07.2015. If the petitioners commit default in repaying any one of the instalments, the institution is at liberty to proceed against the petitioners.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.