

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 2480 of 2014 (H)

PETITIONER:

BINDU GEORGE,
AGED 39 YEARS,
W/O.GEORGE, PUTHIYAKUNNEL HOUSE,
KOOVAKKAL, PATHAR
KURUMBALANGODE VILLAGE, NILAMBUR.

BY ADVS.SRI.JOHN JOSEPH (ROY)
SRI.MATHEW JACOB (KUNNATHU)

RESPONDENT(S) :

1. STATE OF KERALA REP. BY THE SECRETARY TO
GOVERNMENT OF KERALA, REVENUE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

2. SOUTH MALABAR GRAMEEN BANK, NETTIKULAM BAZAR BRANCH,
NETTIKKULAM, NILAMBUR, MALAPPURAM DISTRICT
PIN - 679 329.

3. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
NILAMBUR TALUK OFFICE, NILAMBUR.P.O.
MALAPPURAM DIST. PIN - 679 329.

4. LAND REVENUE COMMISSIONER, OFFICE OF THE LAND REVENUE
COMMISSIONER, THIRUVANANTHAPURAM, PIN - 695 039.

5. SRI.HAMSAKUTTY, S/O.MUHAMMED, NARANGATHODIKA HOUSE,
PATHAR.P.O., KURUMBALANGODU, NILAMBOOR
MALAPPURAMDISTRICT - 679 329.

R2 BY ADV. SRI.T.R.RAVI, SC, S.MALABAR GRAMEEN BANK
R1,R3,R4 BY ADV. GOVERNMENT PLEADER SRI RAFEEK.V.K
R5 BY ADV. SRI.P.SAMSUDIN
R5 BY ADV. SRI.JITHIN LUKOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1 : TRUE COPY OF THE OBJECTION DATED 05.09.2011.

EXHIBIT P2 : TRUE COPY OF THE NOTICE OF SALE OF IMMOVABLE PROPERTY
STATING THE SALE ON 28.06.2012.

EXHIBIT P3 : TRUE COPY OF THE NOTICE DATED 04.07.2012 ISSUED BY THE
TAHSILDAR NILAMBUR.

EXHIBIT P4 : TRUE COPY OF THE MEMORANDUM OF APPEAL FILED REVENUE
RECOVERY ACT.

EXHIBIT P5 : TRUE COPY OF THE ORDER OF THE SUB COLLECTOR DATED
02.04.2013 SERVED ON THE PETITIONER ON 21.05.2013.

EXHIBIT P6 : TRUE COPY OF THE REVISION PETITION FILED BEFORE THE 4TH
RESPONDENT.

EXHIBIT P7 : TRUE COPY OF THE JUDGMENT IN WP(C) NO.18638/2013 DATED
26/07/2013.

EXHIBIT P8 : TRUE COPY OF THE PROCEEDINGS OF THE 4TH RESPONDENT DATED
12.12.2013.

EXHIBIT P9 : TRUE COPY OF THE LETTER ISSUED ON 18.8.2010 ISSUED BY
THE 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT P10 : TRUE COPY OF THE BIRTH CARD OF THE CHILD BORN ON 4.6.09
TO THE PETITIONER.

EXHIBIT P11 : TRUE COPY OF THE LETTER ISSUED BY THE ALLEGED
PARTICIPANTS IN THE SALE DATED 18.7.2012.

RESPONDENT(S) ' EXHIBITS

EXT.R2(a) : TRUE COPY OF ACKNOWLEDGMENT OF DEBT.

/TRUE COPY/

P.S TO JUDGE

P.V.ASHA, J.

W.P(c) No.2480 of 2014-H

Dated this the 29th day of July, 2015

JUDGMENT

The petitioner challenges the proceedings Ext.P8 issued by the 4th respondent by which the proceedings initiated by the Sub Collector, regarding sale conducted towards the loan availed by the petitioner from the 2nd respondent- South Malabar Grameen Bank, has been confirmed.

2. The main grievance of the petitioner is that his contention that, the revenue recovery proceedings were barred by limitation, though alleged before all the authorities, was not considered either in Ext.P8 proceedings of the Commissioner for Land Revenue or by the Sub Collector, who passed Ext.P5 order.

3. The definite case of the petitioner was that the proceedings for revenue recovery can be initiated only within a period of 3 years and therefore the bank was not entitled to proceed for recovery of the loan amount which was already barred by limitation. The petitioner has got a further case that even though this question was raised before all the authorities,

the bank had never disputed his contention in any of the proceedings before the statutory authorities. Therefore the orders passed by them also do not refer to or deal with the said contention.

4. I heard the learned counsel appearing for the bank also, who disputes the contention of the petitioner on the question of limitation. It is argued that the amount due to the bank is liable to be recovered on the basis of the revenue recovery proceedings which is well within the period of limitation.

5. It is seen that the petitioner has got the statutory remedy under Section 83(2) of the Kerala Revenue Recovery Act before the Government, in case he is aggrieved by the orders passed by the Board of Revenue.

6. In the above circumstances, it is only appropriate that the petitioner moves with an appropriate petition before the Government explaining his grievances. The petitioner shall therefore prefer a revision petition, within a period of 30 days, which shall be submitted before the Government along with a copy of this judgment and on receipt of such revision petition, the Government shall consider the same.

7. As the matter was pending before this Court, the Government shall entertain the same as one filed within the period of limitation waiving the delay, as provided under sub section 3 of Section 83. Thereafter orders shall be passed after hearing the petitioner, the South Malabar Grameen Bank as well as the 5th respondent who has purchased the property in auction, specifically referring to the contention of the petitioner on the question of limitation also, within a period of three months.

With the above observations, the Writ Petition is disposed of.

rtr/

Sd/-
(P.V.ASHA, JUDGE)