

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 9710 of 2007 (E)

PETITIONER(S) :

ABDUL SALAM, THYPARAMBIL,
PATTIMATTOM P.O., KANJIRAPPALLY.

BY ADV. SRI.P.DEEPAK.

RESPONDENT(S) :

1. THE DEPUTY TAHSILDAR,
REVENUE RECOVERY, KANJIRAPPALLY.

*ADDITIONAL R2 IS IMPEADED

R2. THE DISTRICT EXECUTIVE OFFICER,
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD,
KOTTAYAM.

(*ADDITIONAL R2 IS IMPEADED AS PER ORDER DATED 27/03/2007
IN I.A.4746/07.)

BY SRI.P.RAMAKRISHNAN, SC, KMTWF BOARD.
BY SRI.K.S.MANU, SC, KMTWWF BOARD.
BY GOVERNMENT PLEADER SRI.T.J.MICHAEL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1. TRUE COPY OF THE F.D.O. DATED 10/07/02.

EXHIBIT P2. TRUE COPY OF ORDER OF THE GOVERNMENT DATED
23/02/2004.

EXHIBIT P3. TRUE COPY OF INTERIM ORDER DATED 17/03/2004 IN WPC
NO.9209/2004.

EXHIBIT P4. TRUE COPY OF COUNTER-AFFIDAVIT FILED IN WPC
NO.9209/2004.

EXHIBIT P5. TRUE COPY OF ORDER OF REPRESENTATION DATED 04/08/04.

EXHIBIT P6. TRUE COPY OF COMMUNICATION DATED 13/03/2007.

RESPONDENT(S) ' EXHIBITS :

EXHIBIT R2 (A) . TRUE COPY OF DEPOSITION OF THE PETITIONER.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K.VINOD CHANDRAN, J.
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W.P(C) No.9710 of 2007
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Dated this the 29th day of January, 2015

JUDGMENT

The petitioner has approached this Court challenging the Revenue Recovery proceedings issued, in pursuance to an order under the Motor Transport Worker's Welfare Fund Act, 1985. The order based on which the demand was raised, was challenged in W.P.(C) No.9209 of 2004, which was disposed of. This Court has called for the Judge's papers of the said writ petition.

2. On admission of W.P.(C) No.9209 of 2004, there was an interim order granted on 17.03.2004, which reads as follows:

“Shri P.Ramakrishnan takes notice for R1. GP takes notice for R2. There will be stay against recovery of Motor Workers Welfare Fund contribution from the first petitioner in respect of demand pertaining to his children, i.e., petitioners 2 to 5 herein. In view of contest by petitioners 2 to 5 there will be direction to the first respondent not to register

their names in the Welfare Fund list of workers, if they are not registered as motor workers. However, if there is registration, recovery will be made.”

2. When the matter was disposed of finally on 02.09.2011, this Court found that there would be no necessity for any fact adjudication, since the actual disputes stands confined within the same family; namely between the father and the children. Aforesaid interim order was made absolute and the writ petition disposed of. In the present writ petition, the petitioner has specifically averred in paragraph 8 that all the workers are registered motor transport workers having worker codes WK 4897, WK 4898, WK 4899 and WK 4900. The registration of the workers, hence, is evident and on the basis of the judgment in W.P.(C) No.9209 of 2004, there can be no further challenge raised against the recovery proceedings. It is also to be noticed that any contribution made by the petitioner in favour of the

workers, if they be his own children, would only enure to their benefit since they would eventually get the benefits of the welfare fund.

3. In such circumstance, there can be no continuation of the stay against the recovery proceedings. The petitioner shall approach the authority, the additional respondent No.2, within a period of two weeks from the date of receipt of certified copy of this judgment and respondent authority shall compute the amounts due as on date and the petitioner shall also be granted six monthly instalments to pay off the same, the first instalment of which will commence on 01.03.2015 and will be continued on the first of every month. If two consecutive defaults are caused, definitely, the Revenue Recovery proceedings shall be revived. If the payments are made in accordance with the above directions, the authority shall demand any future interest, if the statute so permits, which shall be remitted as the 7th instalment. The recovery

proceedings shall stand closed on compliance of the above directions. Writ petition dismissed with the aforesaid directions. No costs.

Sd/-

K.VINOD CHANDRAN, JUDGE

vdv //True Copy//

P.A to Judge