

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

W.P.(C).No. 17028 of 2004 (B)  
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PETITIONER(S):  
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1. SATHYABHAMA, D/O. KUMARAN,  
CHOURIYEDATH HOUSE, PULLUT P.O., KODUNGALLUR.
2. DEVAYANI, D/O. KUMARAN,  
CHOURIYEDATH HOUSE, PULLUT P.O., KODUNGALLUR.

BY ADVS. SRI. M.C. JOHN  
SRI. C. PRABIN BENNY

RESPONDENT(S):  
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1. TODDY WORKERS WELFARE FUND BOARD,  
REPRESENTED BY THE WELFARE FUND INSPECTOR,  
TODDY WORKERS WELFARE FUND BOARD, THRISSUR.
2. C.K. VIJAYAN, S/O. KUMARAN,  
CHOURIYEDATH HOUSE, PULLUT P.O., KODUNGALLUR.
3. P.S. ATHMAN, S/O. SANKARA NARAYANAN,  
PULICKAL HOUSE, PUTHENCHIRA P.O., KODUNGALLUR.
4. P.K.SOMANATHAN, S/O. KITTU,  
PUNNAKKAPARAMBIL, KOTTAMURI, KODUNGALLUR.
5. P.P. SUKUMARAN, S/O. PRABHAKARAN,  
PULICKAL HOUSE, PUTHENCHIRA P.O., KODUNGALLUR.

\* ADDL R6 & R7 IMPEADED

ADDITIONAL R6 & R7 IMPEADED AS PER ORDER DATED 06.07.04 IN I.A. NO. 8384/2004.

6. THE DEPUTY TAHSILDAR, REVENUE RECOVERY, KODUNGALLUR.

7. THE VILLAGE OFFICER, PULLUT, KODUNGALLUR.

R1 BY ADV. SRI.RENIL ANTO KANDAMKULATHY, SC, KTWWF BOARD  
R3 TO R5 BY ADV. SRI. N.B. ANOOP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-06-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**W.P.(C).No. 17028 of 2004 (B)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXT.P-1: TRUE COPY OF THE PRE-ASSESSMENT NOTICE NO. A1/CKDY./45-89/1989-90/04 DATED 09.02.2004.**

**EXT.P-2: TRUE COPY OF THE ORDER NO. A1/CKDY./45-89/1989-90 DATED 31.03.2004/267.**

**EXT.P-3: TRUE COPY OF THE NOTICE NO. B5-2359/1992 DATED 16.06.2004 ISSUED BY THE ADDITIONAL 6TH RESPONDENT.**

**EXT.P-4: TRUE COPY OF THE REVENUE RECOVERY NOTICE NO. B5-6347/2004 DATED 18.06.2004.**

**RESPONDENT(S)' EXHIBITS - NIL**  
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**//TRUE COPY//**

**PA TO JUDGE**

**WW**

**A.M.SHAFFIQUE, J.**

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**W.P.(C)No.17028 of 2004**  
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**Dated this the 24<sup>th</sup> day of June, 2015**

**JUDGMENT**

The petitioners challenge Ext.P2 to the extent demand has been made for interest.

2. The facts involved in the writ petition would disclose that the immovable properties of the petitioners were given as security for the business being conducted by respondents 2 to 5 during the Abkari year 01.04.1989 to 31.03.1990 in respect of T.S.Nos.45 to 89 of Chalakudy Range. Assessment was made by the Toddy Workers Welfare Fund Board (hereinafter referred to as 'the Board') for an amount of Rs.14,08,056/- being the Welfare Fund payable. This matter was challenged by the petitioner and the appeal came to be dismissed. Thereafter, they filed O.P.No.9741/1993 before this Court, whereby the assessment orders were set aside and the matter was remitted back to the original authority. Fresh enquiry was conducted in

the matter and finally Ext.P1 order dated 09.02.2004 was passed determining the Welfare Fund at Rs.14,02,949/-. According to the petitioners, they remitted substantial amount and the balance was only Rs.90,942/-. It is submitted that the demand included an additional amount of Rs.2,95,478/- claimed by way of interest. It is contended that the petitioner is not liable to pay interest, which had arisen on account of the delay in finalising the assessment order. On these set of facts, the petitioner had challenged the levy of interest.

3. Statement is filed by the Standing Counsel for the first respondent inter alia stating that the rate of interest during the relevant time was 9% which was enhanced to 18% since 1996. Being statutory interest, the petitioner is liable to pay the same.

4. The learned counsel for the petitioner submits that the authorities should not have imposed on the petitioner such huge rate of interest. The petitioner was only a surety to the transaction and no steps have been taken against the licensees to recover any amount.

5. On the other hand, the learned counsel appearing for the first respondent relies upon judgment of this Court in **Toddy**

**Welfare Fund Inspector v. Mohanan 2006(3)KLT SN 89 (C.No.127)** wherein the Division Bench of this Court held that under Article 226, this Court cannot interfere with the rate of interest statutorily provided under a particular statute.

6. Having regard to the aforesaid law laid down by the Division Bench, I do not think that this Court will be justified in interfering with the rate of interest imposed on the petitioner. The liability to pay interest will continue until the entire amount has been paid. In the meantime, if there is any change in the rate of interest being levied, the assessee will be liable to pay the said amount also. In the said circumstances, I do not think that the petitioner has made out any grounds to interfere with the levy of assessment or interest being charged by the respondent authorities.

Accordingly this Writ Petition is dismissed.

Sd/-  
**A.M.SHAFIQUE**  
**JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE