

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 8349 of 2012 (P)

PETITIONER(S):

**REHABILITATION PLANTATIONS LTD.,
(A JOINT VENTURE OF GOVERNMENT OF INDIA
AND GOVERNMENT OF KERALA),
PUNALUR, KOLLAM DISTRICT, PIN - 691 305,
REPRESENTED BY MANAGING DIRECTOR S. GOPALAKRISHNAN,
I.F.S.**

BY ADV. SRI.M.C.JOHN

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, KOTTAYAM,
KOTTAYAM DISTRICT - 686 002.**
- 2. THE TAHSILDAR,
TALUK OFFICE, KANJIRAPALLY, KOTTAYAM DISTRICT,
PIN - 686 510.**
- 3. HAJEE K.P. SAYEED MOHAMMED,
S/O. PAKKER MOHAMMED, KOLLAPURAYIDATHIL, KANJIRAPALLY,
KOTTAYAM DISTRICT - 686 510.**

*** ADDITIONAL R4 TO R7 IMPEADED**

- 4. SARAH UMMA,
W/O.SAYEED MOHAMMED, KOLLAPURAYIDATHIL,
NOW RESIDING AT THATTAPARAMBIL HOUSE, PALAMPRA P.O.,
PATTIMATTOM, KOTTAYAM, PIN- 686 518.**
- 5. K.S.MOHAMMED ISMAIL,
KOLLAPURAYIDAM, NEAR PETTA GOVERNMENT HIGH SCHOOL,
KANJIRAPPALLY, KOTTAYAM DIST., PIN - 686 510.**
- 6. K.S.LAILA,
W/O.ISMAILKHAN, PALACKAL VEEDU, PULIMAVU
ANEITHOTTAM, KANJIRAPPALLY, KOTTAYAM
PIN -686 510.**

msv/

WP(C).No. 8349 of 2012 (P)

**7. K.S.AYISHA UMMA
W/O.ISMAIL KHAN, PALACKAL VEEDU, PULIMAVU
ANEITHOTTAM, KANJIRAPPALLY, KOTTAYAM
PIN - 686510.**

*** ADDL. R4 TO R7 ARE IMPEADED AS PER ORDER
DATED 23/03/2013 IN IA 4276/2013.**

**R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI.R.RANJITH
R5, R6 & R7 BY ADV. SRI.PHILIP T.VARGHESE
R5 BY ADVS. SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.T.M.BINITHA
SMT.SUNANDA SUKUMARAN
SMT.N.ASWATHY
SMT.C.A.SABITHA
SMT.K.S.SANGEETHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1- TRUE COPY OF THE REQUISITION DATED 29/04/2000 FROM THE PETITIONER TO THE 1ST RESPONDENT.
- EXHIBIT-P2- TRUE COPY OF THE CERTIFICATE ISSUED BY THE 1ST RESPONDENT DATED 26/08/2000.
- EXHIBIT-P3- TRUE COPY OF THE REVENUE RECOVERY NOTICE DATED 28/11/2000 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT-P4- TRUE COPY OF THE LETTER DATED 25/10/2011 FROM THE PETITIONER TO THE 2ND RESPONDENT.
- EXHIBIT-P5- TRUE COPY OF THE D.O. LETTER DATED 23/11/2011 OF THE 1ST RESPONDENT.
- EXHIBIT-P6- A TRUE COPY OF THE DEMI OFFICIAL (D.O) LETTER DATED 31/12/2011 OF THE 1ST RESPONDENT.
- EXHIBIT-P7- A TRUE COPY OF THE LETTER DATED 11/01/2012 FROM PETITIONER TO THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.8349 of 2012

Dated this the 17th day of August, 2015

JUDGMENT

The petitioner is a Company. They approached this Court seeking a relief directing respondents 1 and 2 to proceed against the third respondent and other respondents under the Revenue Recovery Act to recover the amount due to them. Apparently, the official respondents did not initiate action against the party respondents for the obvious reason that they do not own movable or immovable properties in their name. The petitioner points out certain properties and submits that the party respondents own movable as well as immovable properties. It is also pointed out that certain properties have been transferred fraudulently to defeat the creditor. Therefore, those properties also could be proceeded under the Revenue Recovery Act.

2. In this matter, a detailed counter affidavit has been filed by respondents 1 and 2. It is stated that there were no properties available to party respondents to proceed under the Revenue

Recovery Act. It is further pointed out that in the counter affidavit that the petitioner is able to furnish the details of any property, they are prepared to proceed under the Revenue Recovery Act.

Considering the facts and circumstances, it is ordered that if the petitioner is able to provide any details of movable or immovable properties of the defaulter including any property fraudulently transferred to defeat the creditor, necessary action shall be taken by the official respondents in accordance with law.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In