

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 5262 of 2015 (G)

PETITIONER(S):

**CHITHARENJAN, AGED 61 YEARS,
S/O.PADMANABHAN, KARTHIYANI MANDIRAM,
PEZHUMTHURUTHU MURI, MANROTHURUTH, PERUNNA P.O.
KOLLAM-691 601.**

**BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.SREEKANTH S.NAIR
SRI.ANEESH JOSEPH**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-691 001.**
- 2. WELFARE FUND INSPECTOR,
OFFICE OF WELFARE FUND INSPECTOR, KOLLAM,
KERALA TODDY WORKERS WELFARE FUND BOARD, KOLLAM,
SHAHINA MANSION, OPPOSITE UPASANA HOSPITAL, Q.S.ROAD
KOLLAM-691 001**
- 3. TAHSILDAR(RR), KOLLAM-691 001.**
- 4. REVENUE DIVISIONAL OFFICER, KOLLAM-691 001.**
- 5. K.A.ABDUL RAHI, RIWAN COTTAGE,
PERINADU, KOLLAM-691 601.**
- 6. SASHANKAN, IDATHUMBALA VEEDU, NEAR CIVIL STATION,
THRIKKADAVUR, KOLLAM-691 601.**

**R1,R3 & 4 BY GOVERNMENT PLEADER SMT.M.T. SHEEBA
R2 BY ADV. SRI.RENIL ANTO,SC
R5 BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
R6 BY ADVS. SRI.PRATHEESH.P
SMT.NIMA JACOB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: PHOTOSTAT COPY OF THE ORDER DATED 16.7.2013 ISSUED BY 4TH RESPONDENT.**
- EXHIBIT P2: PHOTOSTAT COPY OF THE ORDER DATED 19.11.2013 IN REVISION PETITION.**
- EXHIBIT P3: A PHOTOSTAT COPY OF THE REVISION PETITION NO.22345/S2/14/RD OF 2014 DATED 21.4.2014.**
- EXHIBIT P4: THE PHOTOSTAT COPY OF THE NOTICE DATED 8.10.2014 ISSUED BY 1ST RESPONDENT.**
- EXHIBIT P5: A PHOTOSTAT COPY OF THE ORDER DATED 9.10.2013.**
- EXHIBIT P6: PHOTOSTAT COPY OF THE NOTICE DATED 15.10.14.**
- EXHIBIT P7: PHOTOSTAT COPY OF THE JUDGMENT IN WPC 28572/14.**
- EXHIBIT P8: PHOTOSTAT COPY OF THE DEMAND NOTICE BEARING NO.D5-716/99, D5-3051/98, D5-5083/01, D5-5587/01, D5-5088/01, D5-536/01 DATED 12.12.2011 ISSUED BY THE TAHSILDAR(RR), KOLLAM.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.5262 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

The petitioner had composite liability of the Abkari dues as well dues to the Welfare Fund. The petitioner's property was sold in public auction. This was purchased by respondents 5 and 6 on 05.02.2013. This was challenged in revision before the Government under Section 83(2) of the Revenue Recovery Act, 1968. Ext.P3 is the memorandum of revision.

2. In the meanwhile, the assessment order under Toddy Workers Welfare Fund Act has been set aside consequent upon a challenge made by the legal representatives of the alleged licensee. It appears that the *denovo* proceedings relating to the assessment is going on with the Board. The petitioner's case is that, in the light of setting aside of the assessment order, the sale conducted has no legal validity.

3. The learned counsel for the party respondents who purchased the property also submits that, the reversal of assessment order is only in respect of the person who claims to have no license for running the abkari shop and therefore, it will no way affect the sale.

4. I am of the view that, since the issue is now highlighted before the Government by Ext.P3, necessarily the same shall be resolved by the Government in appropriate manner while disposing of the revision.

5. However, the learned senior counsel appearing for the petitioner submits that, for settling the abkari dues, the petitioner is prepared to avail the benefit of Amnesty Scheme and the Government may be directed to consider the same. Hence, I am of the view that, the petitioner if other wise entitled to settle the abkari dues under the Amnesty Scheme, the petitioner is free to do so. However, this will be subject to any decision to be made by the Government in respect of the sale as per the proceedings in revision which is pending before the Government.

6. The Government is directed to dispose the revision after notice to the petitioner and party respondents within two months. It is made clear that, the Welfare Fund Board also is free to complete the assessment in accordance with law as per the direction of the appellate authority.

This writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV