

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. 9132 of 2012 (N)

PETITIONER(S):

- 1. K.M. MANOHAR, S/O. LATE MOHANDAS NAIR.**
- 2. K.M. VINOD KUMAR,
S/O. LATE MOHANDAS NAIR,
BOTH ARE RESIDING AT KARUKAYIL (INDHEEVARAM),
SIVASAKTHI LANE, PERUVARAM, NORTH PARUR,
ERNAKULAM-683 513.**

**BY ADVS.SRI.T.C.SURESH MENON,
SRI.P.S.APPU,
SRI.A.R.NIMOD,
SRI.K.A.ANAS.**

RESPONDENT(S):

- 1. THE COMMERCIAL TAX OFFICER,
OFFICE OF THE COMMERCIAL TAX OFFICE,
CHATHANNOOR, KOLLAM, PIN-691 572.**
- 2. THE DISTRICT COLLECTOR, KOLLAM-691 001.**
- 3. THE DEPUTY TAHSILDAR (R.R.), KOLLAM-691 001.**
- 4. K.K. BINU, RESIDING AT KOZHITHODATHU VEEDU,
THATTAMALA P.O., ERAVIPURAM, PANTHRANDUMURI,
KOLLAM DISTRICT, PIN-691 020.**
- *5. T. MYTHEEN KUNJU, S/O. THAMBI RAWTHER,
RESIDING AT KUMARA VILASOM VEEDU,
KADAPPAKKADA, KOLLAM, PIN-691 008. (DELETED)**

***RESPONDENT NO.5 IS DELETED FROM THE PARTY ARRAY AS PER
ORDER DATED 23.06.2015 IN IA. NO.8375/2015.**

**R1 TO R3 BY GOVT. PLEADER SMT.M.T. SHEEBA.
R4 BY ADV. SRI.S.SUDHEESHKAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE SECURITY BOND DATED 25/06/1999.
- EXT.P2 COPY OF THE RECOVERY NOTICE ISSUED BY THE
THIRD RESPONDENT DATED 24/07/2002.
- EXT.P3 COPY OF THE COMMUNICATION DATED 03/01/2004.
- EXT.P4 COPY OF THE COMMUNICATION DATED 05/01/2012.
- EXT.P5 COPY OF THE LEAVE ROLL OF THE SECOND PETITIONER
DATED 07/03/2012.
- EXT.P6 COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE
OF THE 1ST PETITIONER DATED NIL.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.9132/2012**  
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Dated this the 23rd Day of June, 2015

J U D G M E N T

The petitioners impugn revenue recovery proceedings. Revenue recovery proceedings are initiated in respect of the alleged dues from the fourth respondent towards Abkari dues and sales tax dues. The petitioners' case is that the first petitioner was a minor and the second petitioner was serving military at Jammu and Kashmir at the time of execution of Ext.P1 and they were never part of any transaction and had never given any surety nor mortgaged any property to facilitate the fourth respondent to conduct foreign liquor shop. Further, it is submitted that the second petitioner was on duty at the time when Ext.P1 security bond was executed, which fact is evident from Exts.P3 and P5 and that the first petitioner was a minor at the time of execution of the

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security bond and hence, he cannot execute any bond. It is therefore submitted that the revenue recovery proceedings are liable to be set aside.

2. In this matter, a statement has been filed by the first respondent. It is stated therein that the second petitioner has signed Form 6 Bond before the Sales Tax Officer, Chathannoor for Rs.15,00,000/- and had sworn to an affidavit before the Sales Tax Officer stating that he and his brother, who is the first petitioner herein are liable to pay the arrears due from the fourth respondent.

3. I am of the considered view that a detailed inquiry is necessary in this matter by the District Collector invoking the powers under the Revenue Recovery Act. Necessarily, the fact that the first petitioner was a minor or not at the time of execution of Ext.P1 has to be verified. The signature of the second petitioner is also to be verified. Therefore, the District Collector shall take a decision in this matter within three months. It is made clear that any

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further proceedings for revenue recovery shall be initiated only based on the written order passed by the District Collector in the light of the observations as above. The petitioners shall produce a copy of the writ petition along with a certified copy of the judgment before the District Collector for compliance.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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