

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936**

**WP(C).No. 5377 of 2015 (V)**  
-----

**PETITIONER(S) :**  
-----

**BHAVANI, AGED 66 YEARS,  
W/O.LATE K.T.JAYARAMAN, " BALAMANDIRAM", KIZHAYOOR.P.O,  
PATTAMBI, OTTAPALAM TALUK, PALAKKAD DISTRICT.**

**BY ADVS.SRI.SANTHEEP ANKARATH  
SRI.YJAFAR KHAN**

**RESPONDENT(S) :**  
-----

- 1. COMMERCIAL TAX OFFICER,  
OFFICE OF THE COMMERCIAL TAX OFFICER,  
PATTAMBI-679 303, PALAKKAD DISTRICT.**
- 2. DEPUTY TAHSILDAR (REVENUE RECOVERY),  
AS THE AUTHORISED OFFICER, REVENUE RECOVERY,  
OTTAPALAM-679 101.**
- 3. THE VILLAGE OFFICER,  
PATTAMBI VILLAGE, PATTAMBI-679 303.**
- 4. THE DISTRICT COLLECTOR,  
COLLECTORATE, PALAKKAD-678 001.**
- 5. TAHSILDAR,  
TALUK OFFICE, PATTAMBI, PALAKKAD DISTRICT, PIN-679 303.**
- 6. VINEESH A., S/O.BHAVANI,  
"SREEVALSAM", KEEZHAYUR- 679 303,  
PATTAMBI, PALAKKAD DISTRICT.**

**R1 TO R5 BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**WP(C).No. 5377 of 2015 (V)**  
-----

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

- EXHIBIT P1:** TRUE COPY OF SURRENDER DEED NO.3844/1/2011 DATED 23.11.2011 OF SRO, PATTAMBI EXECUTED IN FAVOUR OF THE PETITIONER.
- EXHIBIT P2:** TRUE COPY OF ATTACHMENT MAHAZAR DATED 03.09.2013 PREPARED BY THE REVENUE OFFICIALS.
- EXHIBIT P3:** TRUE COPY OF THE JUDGMENT DATED 12.09.2013 IN WP(C)NO.22926/2013 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P4 :** TRUE COPY OF JUDGMENT DATED 23.09.2014 IN WP(C)NO.24424 OF 2014 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P5:** TRUE COPY OF THE ORDER NO.B1-2013/62576/9 DATED 19.01.2015 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT.P6:** TRUE COPY OF PROCEEDINGS DATED 04.02.2015 OF THE 5TH RESPONDENT.

**RESPONDENT(S)' EXHIBITS**  
-----

**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**A.K.JAYASANKARAN NAMBIAR, J.**

**W.P.(C). No. 5377 of 2015**

**Dated this the 9<sup>th</sup> day of March, 2015**

**JUDGMENT**

The challenge in the writ petition is against Ext.P5 order, that was passed by the 4<sup>th</sup> respondent pursuant to the direction of this Court in Ext.P4 judgment. The facts in the writ petition would disclose that the petitioner had all along claimed that the revenue recovery proceedings were initiated, in connection with defaults committed by the petitioner's son to the commercial taxes department, against the property that belongs to the petitioner and not to the son. The revenue recovery proceedings initiated against the movable properties, said to belong to the petitioner, were challenged before this Court on an earlier occasion, when, by Ext.P3 judgment, the 4<sup>th</sup> respondent was directed to consider the claim petition to be filed by the petitioner within a period of one month from the date of that judgment. Thereafter, the petitioner once again approached this Court seeking a direction to the 4<sup>th</sup> respondent to pass orders in the claim petition filed by her. On that occasion, by Ext.P4 judgment, this Court directed the 4<sup>th</sup> respondent to comply with the direction already given in Ext.P3 judgment before proceeding further with the sale of movable properties that were attached. It would appear that thereafter, the

4<sup>th</sup> respondent proceeded to pass Ext.P5 order without hearing the petitioner. In Ext.P5 order, it is mentioned that, after the claim petition was filed by the petitioner, pursuant to Ext.P3 judgment of this Court, several opportunities were extended to the petitioner for appearing before the 4<sup>th</sup> respondent, and the petitioner did not respond to the said hearing notices. It is noted in Ext.P5 order, that the petitioner's son had appeared before the 4<sup>th</sup> respondent and sought time to produce further documents to establish that the revenue recovery proceedings initiated against him were not legal. It was under those circumstances that, when directed by this Court in Ext.P4 judgment, to pass orders on the claim petition filed by the petitioner, the 4<sup>th</sup> respondent decided that there was no reason to hear the petitioner again, considering that she had not responded to many notices issued in the past for hearing her claim petition.

2. I have heard Sri.Santheep Ankarath, the learned counsel for the petitioner as also Smt.Sobha Annamma Eappen, the learned Government Pleader appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that in Ext.P5 order, while the 4<sup>th</sup> respondent refers to various posting dates, that were intimated to the petitioner for hearing her on the claim petition filed by her, the petitioner did not respond to those hearing notices. It was in those circumstances, that the 4<sup>th</sup> respondent proceeded to reject the claim petition filed by the petitioner. The facts remains, however, that the 4<sup>th</sup> respondent has not formally adjudicated on the merits of the claim petition filed by the petitioner. In that view of the matter, therefore, I feel that the petitioner should be given one last opportunity to adduce materials to substantiate her claim in the claim petition. Thus, I quash Ext.P5 order for the limited purpose of enabling the 4<sup>th</sup> respondent to have a fresh look at the claim petition filed by the petitioner and decide the same on merits.

4. I make it clear that the petitioner shall appear before the 4<sup>th</sup> respondent at 11 AM on 18.03.2015 for a personal hearing in connection with the claim petition, already filed by her before the 4<sup>th</sup> respondent. The 4<sup>th</sup> respondent shall thereafter, pass a reasoned order in the matter, within a period

W.P.(C). No. 5377 of 2015

of three weeks thereafter.

The writ petition is disposed of as above.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

das