

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 6234 of 2015 (D)

PETITIONER :

**P.A.ASHARAF,
S/O. ALIYAR, 'PULIKKAPARAMBIL VEETIL',
KANDAPURAM MURI, KOTTIYOOR AMSOM DESOM,
THALLASSERY TALUK.**

BY ADV. SRI.K.I.SAGEER

RESPONDENT(S):

- 1. VILLEGGE OFFICER,
VENGOLA VILLAGE, KUNNATHUNAD,
ERNAKULAM DISTRICT, PIN-680 554.**
- 2. TAHASILDHAR (REVENUE RECOVERY),
TALUK OFFICE, KUNNATHUNAD-PERUMBAVOOR,
ERNAKULAM DISTRICT, PIN-680 554.**
- 3. DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, COLLECTORATE, KAKKANAD,
ERNAKULAM, PIN-682 030.**
- 4. LAILA,
PROPRIETRIX, PRESTIGE TIMBER TRADERS, M.C ROAD,
PERUMBAVOOR, RESIDING AT MADATHUMPADY HOUSE,
ALLAPRA.P.O., KUNNATHUNAD, ERNAKULAM DISTRICT-683 553.**
- 5. ABDUL JABBAR,
MADATHUMPADY HOUSE, ALLAPRA.P.O., KUNNATHUNAD,
ERNAKULAM DISTRICT-685 553.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 6234 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. A TRUE COPY OF THE NOTICE DT. 8-3-2013 ISSUED BY THE 1ST
RESPONDENT TO THE PETITIONER.**
- EXT.P2. A TRUE COPY OF THE ORDER NO. D7.7285/12 DT. 10-12-2013 OF THE
2ND RESPONDENT.**
- EXT.P3. A TRUE COPY OF THE JUDGMENT DT. 10-10-2014 IN W.P.(C) NO.
26397/2014 OF THIS HON'BLE COURT.**
- EXT.P4. A TRUE COPY OF THE NOTICE DT. 6-1-2015 ISSUED BY THE 3RD
RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 6234 of 2015 (D)

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Dated this the 19th day of March, 2015

JUDGMENT

The petitioner, who was the purchaser of an item of property from the 4th and 5th respondents, is aggrieved by the steps taken by respondent Nos.1 to 3 for proceeding against the property purchased by the petitioner, in accordance with the provisions of the Kerala Revenue Recovery Act, 1968 [for short, the 'Act'].

2. It is the submission of the learned counsel for the petitioner that, pursuant to Ext.P2 order of the 2nd respondent, wherein his objections, with regard to the proceedings under Section 44 of the Act, initiated against the property purchased by him, were rejected by the 2nd respondent, he has preferred an appeal before the 3rd respondent and the same has already been heard by the 3rd respondent. In the meanwhile, however, the 1st and 2nd respondents are continuing to insist on his vacating the property, pursuant to Ext.P2 order.
3. The learned Government Pleader on instructions would submit that, the 1st and 2nd respondents have only taken steps to affix the notice under the Kerala Revenue Recovery Act, 1968 on the property in question, since there were substantial amounts owing to the commercial tax department, from the 4th and 5th

respondents, who were defaulters under the Kerala Value Added Tax Act, 2003. It is also submitted that the 1st and 2nd respondents were informed that, some of the family members of the 4th and 5th respondents are also residing in the said property, along with the petitioner, and it is under the said circumstances, with a view to serve the notice on the last known address of the 4th and 5th respondents, that steps were taken to affix the notice in the property in question. It is categorically stated that, no steps were taken for evicting the petitioner from the said property.

4. I have heard Sri.K.I.Sageer Ibrahim, the learned counsel for the petitioner and Sri.Shyson P. Manguzha, the learned Government Pleader for the respondents.

5. On a consideration of the facts and circumstances of the case and submissions made across the Bar, I note that, as of now, there is no notice served on the petitioner, which would suggest that steps are under way to evict him from the property in question. The submission of the learned Government Pleader that the 1st and 2nd respondents have only affixed notices pertaining to the defaulters, namely the 4th and 5th respondents, on the property and they have not done anything to proceed against the petitioner or his property under the Act, is recorded.

It is made clear that, till such time as orders are passed by the 3rd respondent, in the appeal preferred by the petitioner against Ext.P3 order of the 2nd respondent, no proceedings under the Act, will be taken against the petitioner or his property. With the said observations and directions, the writ petition is closed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/20/03/