

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 11891 of 2010 (J)

PETITIONERS :

**T.J.JOSEPH, S/O.JOSEPH, AGED 40,
BUSINESSMAN, THEKKUMKATTIL HOUSE, ARAKULAM.P.O,
IDUKKI DISTRICT-685 591.**

**BY ADVS. SRI.JOHNSON MANAYANI,
SRI.BENHUR JOSEPH MANAYANI.**

RESPONDENTS :

- 1. THE SENIOR REGIONAL MANAGER, F.A.C.T,
UDYOGAMANDAL.P.O, ERNAKULAM DISTRICT.**
- 2. THE F.A.C.T, UDYOGAMANDAL.P.O, ERNAKULAM,
REP.BY ITS MANAGING DIRECTOR.**
- 3. THE MANAGING DIRECTOR, F.A.C.T,
UDYOGAMANDAL.P.O, ERNAKULAM DISTRICT.**

*** ADDITIONAL R4 IMPEADED**

- 4. CENTRAL BUREAU OF INVESTIGATION,
OFFICE OF THE CENTRAL BUREAU OF INVESTIGATION,
COCHIN- 682 018, REPRESENTED BY ITS DEPUTY SUPERINTENDENT
OF POLICE, CENTRAL BUREAU OF INVESTIGATIONS.**

*** ADDITIONAL R4 IS IMPEADED AS PER ORDER DATED 01-07-2015 IN
I.A.NO.4214 OF 2012.**

**R1 TO R3 BY ADVS. SRI.E.K.NANDAKUMAR,
SRI.K.JOHN MATHAI,
SRI.P.BENNY THOMAS,
SRI.P.GOPINATH.
ADDL. R4 BY ADV. SRI.P.CHANDRASEKHARA PILLAI, C.B.I**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 01-07-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS & ANNEXURES :

**EXHIBIT P1: THE TRUE COPY OF THE PETITIONER'S BANK PASSBOOK BANK
OF BARODA, THODUPUZHA BRANCH.**

**EXHIBIT P2: THE TRUE COPY OF THE LETTER DATED 19.03.2007 OF
THE 1ST RESPONDENT.**

**EXHIBIT P3: THE TRUE COPY OF THE LETTER DATED 01.08.2009 OF
THE 2ND RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF THE LETTER DATED 21.03.2010 OF THE
PETITIONER TO THE FIRST RESPONDENT.**

**EXHIBIT P5: TRUE COPY OF THE PETITION FILED BY THE PETITIONER
DATED 03.03.2012 WITHOUT THE EXHIBITS.**

ANNEXURE A1: TRUE COPY OF THE COVERING LETTER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P.(C) No. 11891 of 2010 (J)

Dated this the 1st day of July, 2015

J U D G M E N T

The petitioner is a dealer of the 2nd respondent. The petitioner had been having steady business and the respondent was maintaining a running account of the dealership.

2. It is the specific assertion of the learned counsel for the petitioner that there was no credit transactions between the petitioner and the respondents. Amounts were remitted against invoices and only on that basis supplies were made. However, the petitioner was surprised insofar as receiving a communication dated 19.3.2007, produced at Ext.P2. Ext.P2 informed the petitioner that an amount of Rs.60,032.98 is due in the account of the petitioner from 31.12.2006. A reconciliation of accounts was also sought for. The petitioner is said to have immediately responded to the same contending that there is no question of any reconciliation of accounts since there is no credit

transaction between the petitioner and the respondent.

2. Nothing was done by the respondent after Ext.P2 till 2009 when Ext.P3 was issued, again raising the very same claim. The petitioner replied by Ext.P4. But however, the petitioner's dealership was discontinued and in such circumstance, the petitioner approached this Court. This Court by Interim Order dated 8.4.2010 directed payment of Rs.60,032/- and also directed restoration of the supply of fertilizers to the petitioner.

3. The petitioner has been continuing the dealership on the basis of the interim order after remitting the aforesaid amount. The respondent has now filed a counter affidavit contending that there is no material to prove the figure of Rs.60,032/- for reason of their accounting system having been changed.

4. In such circumstance, the respondent cannot claim the above amount against the petitioner. The respondent shall refund the said amount within two months

from the date of production of the certified copy of this judgment, failing which the respondents will be liable to pay interest at the rate of 6% from the date of deposit till refund.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE