

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 8568 of 2015 (U)

PETITIONER:

**SHANIL SADANANDAN, AGED 39 YEARS,
S/O.SADANANDAN,
THDIYIL VEEDU, VALATHUNGAL P.O, VALATHUNGAL
KOLLAM.**

**BY ADVS.SRI.G.S.REGHUNATH
SRI.AJAYAKUMAR G.**

RESPONDENT(S):

- 1. SONY SAMUEL, S/O.P.C.SAMUEL
PANAKACHERI HOUSE, 36/855, SPICES STREET,
LISY HOSPITAL, ERNAKULAM - 682 017.**
- 2. M/S.PARTHASARATHY PROPERTIES PVT.LTD.
35/3076A, 1ST FLOOR, MADAMBIL BUILDING,
THAMMANAM MAIN ROAD, PALARIVATTOM, COCHIN-682 015.**
- 3. REV.FR. GEORGE VARGHESE,
KANIKKASSERY HOUSE, KARINILAM, MUNDAKKAYAM,
KOTTAYAM 686513.**
- 4. GIREESAKUMAR K.
MANAGING DIRECTOR,
PARTHASARADHY PROPERTIES PVT.LTD., NOW RESIDING
AT DOOR NO.6/546,
CRA 10, ALANGAD P.O MALIKAMPEEDIKA,
ERNAKULAM - 683 511.**
- 5. SAM THOMAS, S/O.THOMAS,
PANICKASSERY HOUSE, APPOLA ROAD
EDAPPILLY SOUTH VILLAGE, KANAYANNOOR TALUK,
THAMMANAM P.O, KOCHI 682032.**
- 6. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
(CIVIL STATION) GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

- 7. SUB REGISTRAR,
KILIKOLLOOR SUB REGISTRAR'S OFFICE, KILIKOLLOR, KOLLAM
PIN-691 004.**

R1 BY ADV.JAMES ABRAHAM

R4 BY ADV. SRI.O.D.SIVADAS

SRI.C.RADHAKRISHNAN

R6 & R7 BY (SR) GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE PARTHASARADHY PROPERTIES.
- EXT.P2 - TRUE COPY OF THE ARTICLES OF ASSOCIATION OF THE PARTHASARADHY PROPERTIES.
- EXT.P3 - TRUE COPY OF THE COMPLAINT C.C.NO.44/2011 BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM, THIRUVANANTHAPURAM.
- EXT.P4 - TRUE COPY OF THE I.A. IN C.C.NO.44/2011 ON THE FILE OF THE CONSUMER DISPUTES REDRESSAL FORUM, THIRUVANANTHAPURAM DATED 13-5-2014.
- EXT.P5 - TRUE COPY OF THE ORDER DATED 10-6-2014 OF THE CONSUMER DISPUTES REDRESSAL FORUM, THIRUVANANTHAPURAM.
- EXT.P6 - TRUE COPY OF THE SALE DEED NO.851/2005 DATED 10-3-2005.
- EXT.P7 - TRUE COPY OF THE LIST OF 32 PERSONS SHOWING THE DETAILS OF PAYMENTS.
- EXT.P8 - TRUE COPY OF THE OBJECTION FILED BY PETITIONER IN C.C.NO.44/2011 ON THE FILE OF THE CONSUMER DISPUTES REDRESSAL FORUM, THIRUVANANTHAPURAM.
- EXT.P9 - TRUE COPY OF THE PETITION TO LIFT THE ORDER ON I.A.NO.418/2014 IN C.C. NO.44/2011 ON THE FILE OF THE CONSUMER DISPUTES REDRESSAL FORUM, THIRUVANANTHAPURAM.
- EXT.P10 - TRUE COPY OF THE JUDGMENT DATED 1-9-2014 IN WPC.NO.21778/2014 OF THE HIGH COURT OF KERALA.

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

P.A.TO JUDGE

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 8568 of 2015

Dated this the 24th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"A. That all records relating to Exhibit P5 be called to this Hon'ble Court and a writ of certiorari or other order passed quashing Exhibit P5 order.

B. To issue a writ of mandamus or other order be passed directing the Kerala State Consumer Dispute Redressal Commission, Thiruvananthapuram to pass an order on Exhibit P8 within a time to be fixed by this Hon'ble Court strictly as provided under law; as observed in Ext. P10 judgment.

C. That the Kerala State Consumer Dispute Redressal Commission, Thiruvananthapuram be directed to vacate Ext.P5 order passed and direct the 7th respondent to register documents regarding the property included in Ext.P6 in the name of the persons included in Ext.P7."

2. The case of the petitioner is that, the State Commission has already attached the property mentioned as C-Schedule in Ext.P4 which actually is a personal property belonging to the petitioner and not of the Company. This being the position, the attachment of the property ordered by the State Commission is

to be ordered to be lifted and for that Ext.P9 representation has been filed before the State Commission as I.A. No. 418 of 2014 in C.C. No.44 of 2011. The prayer is to cause the same to be considered and decided within the shortest possible time.

3. Heard the learned counsel for the 1st respondent as well as the learned counsel for the 4th respondent.

4. The learned counsel for the 1st respondent who is the complainant before the State Commission points out that the matter cannot be considered by the State Commission so as to grant the relief sought for by the petitioner, in so far the Company has already been wound up as per the order passed by the Company Court in C.C 34 of 2013 and there is a statutory bar by virtue of Section 279 of the Companies Acts, 1956. The learned counsel for the petitioner submits that the said bar is applicable only in respect of the proceedings by and against the Company. But the grievance projected in Ext.P9 is in respect of the personal property of the petitioner which has nothing to do with the Company.

This Court does not find it necessary to deal with the merits

of the case or as to whether Ext.P9 could be considered by the State Commission or not. After hearing both the sides, there will be a direction to the State Commission to consider and pass appropriate orders on Ext.P9 in accordance with law after hearing both the sides, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment. It is made clear that this Court has not expressed any thing with regard to the merit involved. It is open for both the parties to project their grievance and substantiate the factual position before the State Commission.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-