IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 12614 of 2010 (B)

PETITIONER(S):

P.K.BALAN, S/O. KUMARAN,
PUZHAKKADAVIL HOUSE, ASHOK NAGAR, AYYANTHOLE
THRISSUR DIST.

BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENT(S):
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1. DEPUTY TAHSILDAR (RR), THRISSUR.

2. THE VILLAGE OFFICER, ARANATTUKARA VILLAGE, THRISSUR DISTRICT.

3. THE DISTRICT COLLECTOR, COIMBATORE, TAMILNADU.

4. DIVISIONAL EXCISE OFFICER, DIVISIONAL EXCISE OFFICE, POLLACHI, TAMIL NADU.

BY SRI P.V. ELIAS, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 12614 of 2010 (B)

APPENDIX

PETITIONER'S EXHIBITS:

P1 : COPY OF THE NOTICE NO.RR1-1652/10 D.CS G3.1010/8188/8 DATED 11.03.2010 ISSUED UNDER SECTION 7 OF THE REVENUE RECOVERY ACT DEMANDING A SUM OF RS.92,945/- ISSUED BY THE 1ST RESPONDENT.

P2 : COPY OF THE NOTICE NO.RR1-1652/10 D.CS G3.1010/8188/8 DATED 11.03.2010 ISSUED UNDER SECTION 34 OF THE REVENUE RECOVERY ACT DEMANDING A SUM OF RS.92,945/- ISSUED BY THE 1ST RESPONDENT ON 30.03.2010

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRAN, J.

W.P.(C) No.12614 of 2010

Dated this the 25th day of June, 2015

JUDGMENT

The petitioner is an Abkari Contractor, who bid in auction the right to conduct Arrack Shop No.68 at Pethanaikkanur under Pollachi Range in Tamil Nadu, under the jurisdiction of Divisional Excise Officer, Pollachi, for the year 1981-1982. He has filed this writ petition seeking a writ of mandamus restraining the respondents from proceeding against him under Sections 7 and 34 of the Revenue Recovery Act for realization of amount demanded in Exts.P1 and P2 demand notices.

2. By order dated 08.04.2010, this Court granted an interim stay for a period of three months which order of stay was extended until further orders on 14.07.2010.

3. Going by the averments in the writ petition, the petitioner who was conducting Arrack Shop No.68 at Pethanaikkanur at Pollachi range, for the year 1981-1982, discontinued business on account of non-supply of Arrack by the Excise Authorities. According to the petitioner, he was saddled with certain liabilities and the balance arrears amounting to Rs.49,500/- was paid vide Challan No.62 dated 21.02.2000 before the Divisional Excise Officer, Pollachi. Now the petitioner

is issued with Exts.P1 and P2 demand notices under Sections 7 and 34 of the Revenue Recovery Act, by which respondents 1 and 2 have called upon the petitioner to pay a sum of Rs.92,945/- together with 12% interest from 01.07.1984 to 23.03.2000 as well as 5% collection charges. It is aggrieved by Exts.P1 and P2 demand notices, the petitioner has approached this Court in this writ petition.

4. A counter affidavit has been filed on behalf of the 1st respondent in which it has been stated that revenue recovery requisition was received from the District Collector of Coimbatore, the 3rd respondent herein, vide requisition No.3252/2000/26 dated 10.10.2009, requesting to recover a sum of Rs.92,945/- from the petitioner. Pursuant to the aforesaid requisition, the District Collector, Thrissur issued Revenue Recovery Certificate as per G3-2010/8188/8 and authorized the Tahsildar, Revenue Recovery, Thrissur to collect the defaulted amount. On receipt of Revenue Recovery Certificate, the Tahsildar issued notices under Sections 7 and 34 of Kerala Revenue Recovery Act against the petitioner. It was at that juncture, the petitioner has approached this Court and obtained an order of stay against the revenue recovery proceedings

initiated against him based on Exts.P1 and P2 demand notices.

5. In the counter affidavit, the 1st respondent has taken a contention that since the revenue recovery requisition was issued by the District Collector, Coimbatore, the 3rd respondent herein, the subject matter of this writ petition arose outside the jurisdiction of this Court. If the petitioner is aggrieved by the recovery, it is for him to approach the High Court of Judicature at Chennai for appropriate reliefs. Relying on Ext.R1 judgment of this Court dated 10.03.1997 in O.P.No.560/1991, the 1st respondent would contend that, the petitioner has to approach the High Court of Judicature at Chennai for redressal of his grievance.

6. I have considered the contentions raised in the writ petition by the petitioner and also heard the learned Government Pleader appearing for the respondents 1, 2 and 4.

7. From the pleadings and documents on record, it is explicitly clear that, the petitioner is being proceeded against under the provisions of the Revenue Recovery Act, based on a requisition made by the District Collector, Tamil Nadu, for abkari dues for the year 1981-1982 in relation to Arrack Shop No.68 at Pethanaikkanur under Pollachi Range in Tamil Nadu. If the

petitioner has got a case that he is not liable to pay the amount demanded in Exts.P1 and P2, it is for him to initiate appropriate legal proceedings against the Divisional Excise Officer, Pollachi or other competent Excise Officials before the appropriate Court having territorial jurisdiction. When Exts.P1 and P2 demand notices issued by the 1st respondent is on the basis of revenue recovery requisition made by the District Collector, Coimbatore, addressed to the District Collector, Thrissur, which resulted in a Revenue Recovery Certificate being issued by the District Collector, Thrissur, the petitioner cannot challenge Exts.P1 and P2 demand notices without challenging his liability under revenue recovery requisition made by the District Collector, Coimbatore, which can be challenged only by way of an appropriate legal proceedings initiated at Tamil Nadu.

In such circumstances, I find absolutely no merit in the writ petition and the same is dismissed, without prejudice to the right, if any, of the petitioner to initiate appropriate legal proceedings before the Court having territorial jurisdiction.

SD/-
ANIL K. NARENDRAN,
JUDGE

JV