IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 9409 of 2015 (A)

PETITIONER:

HAMZA,
S/O.NAFEESA,
AGED 39 YEARS,
NALAKATH HOUSE, KOTTAKKAL P.O.
TIRUR, MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S)/RESPONDENTS:-
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO REVENUE DEPARTMENT
GOVT. SECRETARIAT, THIRUVANANTHAPURAM - 695 001.

2. THE SECRETARY,
REVENUE DEPARTMENT, GOVT. SECRETARIAT
THIRUVANANTHAPURAM - 695 001.

3. THE COMMISSIONER OF LAND REVENUE,
MUSEUM JUNCTION, THIRUVANANTHAPURAM - 695 001.

4. THE DISTRICT COLLECTOR,
MALAPPURAM, COLLECTORATE P.O., MALAPPURAM - 676 505.

5. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, TIRUR, MALAPPURAM - 676 101.

6. THE VILLAGE OFFICER,
THIRUNAVAYA VILLAGE OFFICE, POST THIRUNAVAYA, TIRUR
MALAPPURAM - 676 102.

*7. THE SOUTH MALABAR GRAMIN BANK,
TIRUR BRANCH, POST TIRUR, MALAPPURAM - 676 101
REPRESENTED BY ITS MANAGER. (SUBSTITUTED)

8. NAFEESA,
NALAKATH HOUSE, KOTTAKKAL P.O., TIRUR
MALAPPURAM - 676 503.

9. ABDUL AZEEZ @ ROBERT PATHROSE,
CHITTAKAM, KOTTAKKAL P.O., TIRUR TALUK
MALAPPURAM DISTRICT - 676 503.

*R7 SUBSTITUTED AS
KERALA GRAMIN BANK,
TIRUNAVAYA BRANCH, POST TIRUNAVAYA, TIRUR TALUK,
MALAPPURAM DISTRICT AS PER ORDER DATED 14/07/2015 IN IA NO.9675/2015.

R1TO R6 BY GOVERNMENT PLEADER SMT.M.T.SHEEBA
R7 BY SRI.T.R.RAVI, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

vmr.

WP(C).No. 9409 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. THE TRUE COPY OF DOCUMENT NO.2858/1998 OF SRO, KODAKKAL DATED 23.12.1998.

EXHIBIT P2. THE TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, THIRUNAVAYA DATED 10.09.2012.

EXHIBIT P3. THE TRUE COPY OF THE ORDER ISSUED BY THE 5TH RESPONDENT DATED 21.12.2009.

EXHIBIT P4. THE TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 5TH RESPONDENT DATED 09.11.2010.

EXHIBIT P5. THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 12.11.2010.

EXHIBIT P6. THE TRUE COPY OF THE ORDER OF THE 5TH RESPONDENT DATED 01.01.2011.

EXHIBIT P7. THE TRUE COPY OF THE JUDGMENT IN WP(C)NO.35747/2010 DATED 11.01.2011.

EXHIBIT P8. A TRUE COPY OF THE ORDER OF THE 3RD RESPONDENT DATED 18.12.2013.

EXHIBIT P9. A TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 23.12.2014.

RESPONDENT(S)' EXHIBITS : NIL.

/TRUE COPY/

P.S.TO JUDGE

vmr.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 9409 of 2015
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Dated this the 24th day of July, 2015

J U D G M E N T

The petitioner is the son of the 8th respondent. The 8th respondent executed a document in favour of the petitioner in the year 1998. According to the petitioner, by virtue of the above document petitioner has become the absolute owner and in possession of the property.

2. The 8th respondent has a liability with the 7th respondent Bank. The Bank initiated revenue recovery proceedings in the year 1998 and also effected attachment over the property held by the petitioner .

3. The Bank in fact proceeded against the property of the petitioner as well as the original borrower. Since Bank has proceeded against property of the borrower they had dropped attachment against the property held by the 8th respondent, which is now assigned to the petitioner as per Ext.P3. This was on 21.12.1999. The borrower filed a suit against the Bank to restrain the Bank from proceeding against his property. This was decreed. The sole issue in this writ petition is centered around Ext.P3.

4. The learned counsel for the petitioner submits that in view of dropping of the proceedings against the petitioner, only fresh proceedings can be initiated and any such proceedings would be barred by limitation. Therefore question of limitation has to be decided.

5. Learned counsel for the Bank submits that Ext.P3 is only a withdrawal of attachment and they have never withdrawn any requisition made before the revenue authorities. It is further submitted that present revenue recovery proceedings is the continuation of earlier revenue recovery proceedings initiated in the year 1998.

6. The claim of the Bank is also affirmed from the statement filed by the 5th respondent. It is stated that requisition was on 14.12.1998.

7. It is seen from Ext.P3 that it is only a lifting of attachment and that does not indicate that proceedings have been dropped. The lifting of attachment would not result in dropping revenue recovery proceedings. The demand unless withdrawn or recalled, that demand will continue to exist in terms of Revenue Recovery Act. There was no interference at any point

of time with the revenue recovery proceeding. The halting of revenue recovery proceedings for more than a decade could not be construed as dropping of revenue recovery proceedings. The petitioner has no case that, the claim was barred by limitation in the year 1998.

8. In that view of the matter, the contention of the petitioner, that the claim is barred by limitation is unsustainable as the present revenue recovery proceedings is only a continuation of the earlier revenue recovery proceedings. In that view of the matter, there is nothing survives for consideration.

Accordingly, this writ petition is dismissed. No cost.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE.

Pn