

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP(C).No. 10670 of 2015 (G)

PETITIONER :

**NOEL VILLAS & APARTMENTS,
5TH FLOOR, NOEL HOUSE, CIVIL LINES ROAD,
THRIKKAKARA P.O., KAKKANAD,
COCHIN-682 021, REPRESENTED BY ITS MANAGING
PARTNER JOHN THOMAS.**

BY ADV. SRI.RAJIV ABRAHAM GEORGE

RESPONDENT(S):

- 1. BHARAT SANCHAR NIGAM LTD.,
CTO BUILDING, KARAKKATT ROAD,
KOCHI-682 016, REPRESENTED BY THE PRINCIPAL
GENERAL MANAGER.**
- 2. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695 001.**
- 3. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, COLLECTORATE, KAKKANAD,
COCHIN-682 021.**
- 4. THE SPECIAL TAHSILDAR, REVENUE RECOVERY,
KANAYANNUR TALUK, ERNAKULAM DISTRICT,
KOCHI-682 011.**
- 5. THE VILLAGE OFFICER,
KANAYANNUR TALUK, VAZHAKKALA VILLAGE,
COCHIN-682 021.**

**R1 BY ADV. SRI.P.J.PHILIP,SC,BSNL(BHARAT SANCHAR NIGAM LTD
SRI.MATHEWS K.PHILIP,SC, BSNL
R2 TO R5 BY GOVERNMENT PLEADER SMT. M.T.SHEEBA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 10670 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1- TRUE COPY OF ORDER DATED 29.1.2015 IN IA NO.366 OF 2015 OF
 THE II ADDITIONAL DISTRICT JUDGE, ERNAKULAM**
- EXT.P2- TRUE COPY OF ORDER DATED 24.2.2015 IN IA NO.366 OF 2015 OF
 THE II ADDITIONAL DISTRICT JUDGE, ERNAKULAM**
- EXT.P3- TRUE COPY OF E-MAIL DATED 21.3.2015 FROM THE ACCOUNTS
 OFFICER OF THE 1ST RESPONDENT TO THE PETITIONER**
- EXT.P4- TRUE COPY OF LETTER DATED 19.3.2015 FROM THE CIRCLE
 INSPECTOR OF POLICE, KALAMASSERY ENCLOSING THE REPORT
 DATED 10.3.2015.**
- EXT.P5- TRUE COPY OF THE PETITIONER'S LETTER DATED 23.3.2015 TO THE
 ACCOUNTS OFFICER**
- EXT.P6- TRUE COPY OF DEMAND NOTICE DATED 26.3.2015.**

RESPONDENT(S)' EXHIBITS

- EXT.R1(A)- COPY OF THE APPLICATION BY THE PETITIONER DATED 5/3/2014**

/TRUE COPY/

P.A.TO JUDGE

sts

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 10670 of 2015

Dated this the 22nd day of June, 2015

J U D G M E N T

The petitioner challenges the revenue recovery proceedings raising a demand of ₹31,81,000/- at the instance of BSNL.

2. The petitioner disputes the liability. It seems that the petitioner has raised certain complaints through Cyber cell for enquiry. The petitioner also raised objection by Ext.P5 before the BSNL. Petitioner also moved the District Court, Ernakulam under Section 9 of Arbitration & Conciliation Act, 1996 for interim order. These all clearly show that a dispute has been raised by the petitioner regarding liability.

3. In such circumstances, I am of the view that R.R. Proceeding is unsustainable. The liability of the petitioner has to be determined in terms of Telegraph Act. Section 7B provides that dispute mechanism through arbitration.

4. In that view of the matter, the writ petition is disposed of with the following directions:

(i) RR proceedings against the petitioner is quashed and set aside.

(ii) The 1st respondent shall take steps to appoint the arbitrator in terms of Section 7B of the Telegraph Act.

It is made clear that any demand can be raised against the petitioner only after the dispute is adjudicated through arbitration process.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn