IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No. 17014 of 2015 (B)

PETITIONER(S):

SATISH MURTHI, AGED 52 YEARS,
SON OF K.V.NARAYANMURTI, 'VISALAKSHY',
NEW KALPATHY, PALAKKAD, PRESENTLY
RESIDING AT CHAKOLAS HABITAT, A BLOCK 9-D,
THEVARA FERRY ROAD, THEVARA, COCHIN- 13.

BY ADVS.SRI.P.B.KRISHNAN,
SMT.M.UMA DEVI.

RESPONDENT(S):
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1. ASSISTANT POST MASTER (S.B),
PALAKKAD -678 001.

2. OFFICE OF THE SENIOR SUPERINTENDENT OF POST OFFICES,
PALAKKAD DIVISION, PALAKKAD- 678 001.

3. THE CHIEF POST MASTER GENERAL,
KERALA CIRCLE, PMG JUNCTION, NEAR PLANETARIUM,
THIRUVANANTHAPURAM - 695 033.

4. THE ASSISTANT POST MASTER (S.B),
ERNAKULAM HEAD POST OFFICE.

5. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF ECONOMIC AFFAIRS,
MINISTRY OF FINANCE.

BY ADV. SRI.N.NAGARESH, ASSIST. S.G. OF INDIA.
ADV. SMT.O.M.SHALINA, CGC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 17014 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:-

P1(A): TRUE COPY OF NATIONAL SAVINGS CERTIFICATE UNDER SERIAL NO.04NA 574001.

P1(B): TRUE COPY OF NATIONAL SAVINGS CERTIFICATE UNDER SERIAL NO.04NA 574120.

P2: TRUE COPY OF THE REPRESENTATION DATED 1ST JUNE, 2015.

P3: TRUE COPY OF NATIONAL SAVINGS CERTIFICATE (IX ISSUE) RULES, 2011.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.
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W.P.(C) No.17014 of 2015 - B
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Dated this the 29th day of June, 2015

J U D G M E N T

The petitioner seeks for premature encashment of the National Savings Certificates (NSC), which he had subscribed. The petitioner admittedly had subscribed to 12 certificates having a face value of Rs.10,000/- each. The same was taken out on 29.05.2012, with a maturity period of 10 years. The petitioner at this point seeks encashment of the same on the ground that the petitioner has to finance his daughter's education. The petitioner contends that he is ready to take it at a discounted rate, as the same is allowed under Rule 16 of the National Savings Certificates (IX-Issue) Rules, 2011 (for brevity 'the Rules'); in which discounted price is indicated in the Tabular form under Rule 16.

2. A specific clause with respect to premature encashment is seen at Rule 16(1) which is extracted hereunder:-

> **Premature encashment:-**
>
> Notwithstanding anything contained in rule 15 and the subject to sub-rules(2), (3) and (4), a certificate may be prematurely encashed in any of the following circumstances, namely:-
>
> (a) on the death of the holder or any of the holders in case of joint holders;
>
> (b) on forfeiture by a pledge being a Gazetted Government Officer when the pledge is in conformity with these rules; or
>
> (c) when ordered by court of law,

3. The petitioner specifically relies on sub-clause (c) of sub-rule (1) of Rule 16 and seeks for an order from this Court to obtain premature encashment. This Court is not convinced that an order can be passed merely for the asking, on the basis that Ext.P3 contains a clause where premature encashment is permitted when ordered by Court of law. The jurisdiction of this Court conferred under Article 226 of the Constitution of India, is one conferred by the Constitution and not conferred by the Rules framed by the Central Government as is indicated in Ext.P3. In fact this Court would opine that the sub-clause incorporated

in the Rules is redundant insofar as even without the said clause; on this Court or any other Court ordering a premature encashment, the same has to be done.

4. The specific grounds on which premature encashment can be sought for are provided in clause (a) and (b) and if a dispute arises as to clause (a) and (b) there could be an order from Court which resolves the said dispute. Clause (b) in fact provides for a forfeiture in a pledge created in conformation, with the rules, ie., in conformity with Rule 12. Even otherwise a creditor proceeding against a debtor in a Court of law could seek attachment of the amounts so deposited in the National Savings Certificates and a competent Court could even direct payment from the proceeds of the NSC, as prematurely encashed.

5. There could also be orders issued by this Court in compelling circumstances, which has to be decided on a balancing consideration of the intention behind the issuance of National Savings Certificates. It is very evident that issuance of

National Savings Certificate is for generation of revenue to the Government, which provides for a specific lock-in period and also provides reliefs in the nature of tax sops to the investor. The tax relief granted is also on the basis of the specific lock-in period of the money, which is invested with the Central Government.

6. Herein, the period for which the investment has been made by the petitioner is for 10 years. The petitioner seeks premature encashment of the same only on the ground that the petitioner's daughter's education requires the same at this point. It cannot be said that, that is a compelling circumstance, which would enable this Court to exercise discretion and invoke the extra ordinary remedy so as to direct the Central Government, to encash the National Savings Certificates prematurely, especially since the same would result in a plethora of such requests being made for one reason or another.

7. The petitioner invested the money in the National

Savings Certificates for a period of 10 years, which period is as specified in Rule 15. The investment made having certain attendant benefits like relief on income-tax, was one made consciously and with the understanding that the same is not akin to a deposit made in a financial institution. The statutory rules provide for the maturity period and the instances when premature encashment can be made. No departure could be made from such rules.

The writ petition would stand dismissed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.