

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

W.P.(C).No.17688 of 2015 (I)

PETITIONER(S):-

M/S.RELIANT MARKETING AND SERVICES PRIVATE LTD.,
30/1547B, NH 47 BYEPASS , PONNURUNNI, VYTTILA,
ERNAKULAM 682 019,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADVS.SRI.P.K.GEORGE
SMT.SMITHA GEORGE.

RESPONDENT(S):-

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1. THE REGISTRAR OF COMPANIES, KERALA,
COMPANY LAW BHAVAN, BMC ROAD, THRIKKAKARA P.O,
ERNAKULAM - 682 021
 2. THE DEPUTY REGISTRAR OF COMPANIES, KERALA,
COMPANY LAW BHAVAN, BMC ROAD,
THRIKKAKARA P.O, ERNAKULAM - 682 021
 3. PUNJAB NATIONAL BANK,
M.G ROAD BRANCH, RAVIPURAM, ERNAKULAM 682 015,
REPRESENTED BY ITS CHIEF MANAGER

R1 & R2 BY CENTRAL GOVERNMENT COUNSEL SRI.R.PRASANTH KUMAR.
R3 BY STANDING COUNSEL SRI.SANTHEEP ANKARATH.
R3 BY ADV. SRI.K.P.SUDHEER
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE COMPLAINT IN ST NO 509/2013 BEFORE THE
ADDITIONAL CHIEF JUDICIAL MAGISTRATE (ECONOMIC OFFENCES)
COURT, ERNAKULAM.
- EXHIBIT P2 TRUE COPY OF THE PARTICULARS OF CHARGE OBTAINED FROM
1ST RESPONDENT'S OFFICE.
- EXHIBIT P3 TRUE COPY OF THE PARTICULARS OF MODIFIED CHARGE
OBTAINED FROM 1ST RESPONDENT'S OFFICE.
- EXHIBIT P4 TRUE COPY OF REPRESENTATION DATED 02-05-2015 SUBMITTED
BY THE PETITIONER.
- EXHIBIT P5 TRUE COPY OF THE REPLY DATED 12-05-2015 GIVEN BY THE
3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

VKU/

[TRUE COPY]

K. Vinod Chandran, J

W.P.(C).No.17688 of 2015-I

Dated this the 07th day of August, 2015

JUDGMENT

The petitioner was before this Court contending that the petitioner-Company has been defunct for long, from 2010 onwards, and that under a Scheme formulated by the Central Government, the petitioner had applied for winding up of the Company after filing returns, which have been defaulted. By that time, the Registrar of Companies had filed a prosecution before the Economic Offences Court at Ernakulam, which is produced at Exhibit P1, for reason of it having not filed the annual returns as prescribed under the Companies Act, 1956 as also for not convening of Annual General Body Meeting. The petitioner, in the above writ petition, sought for keeping in abeyance the prosecution proceedings till a decision is taken in the winding up application.

2. I have heard learned counsel for the petitioner, learned Central Government Counsel for respondents 1 and 2 and the learned Standing Counsel for the 3rd respondent.

3. It was also brought to the notice of this Court that the Registrar of Companies had declined the consideration under the Fast Track Exit Scheme, since the petitioner-Company's assets are said to have been encumbered and charged to the 3rd respondent, which was recorded by the Registrar of Companies as provided under the Companies Act. The petitioner asserted that there is no such due to the 3rd respondent and it is only for the reason of the Company being defunct that the charge was not lifted, after clearing the dues to the 3rd respondent.

4. The 3rd respondent has also filed a counter affidavit, clearly indicating that there is no amount outstanding in the name of the petitioner herein and that no recovery proceedings are also pending. The charge noticed in favour of 3rd respondent, in the above circumstance, shall stand lifted.

5. In the above circumstances, it is only proper that the application under the Fast Track Exit Scheme be considered by the 1st respondent. Till such time, the proceedings at Exhibit P1 shall stand stayed.

The writ petition is disposed of as above. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]