

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

W.P.(C).No.28426 of 2005 (H)

PETITIONER(S):-

M/S. AGRO FRUIT PRODUCTS, PUNALUR,
KOLLAM DISTRICT, REPRESENTED BY MANAGING DIRECTOR,
KERALA AGRO INDUSTRIES CORPORATION LTD., TRIVANDRUM.

BY ADVS.SRI.E.K.NANDAKUMAR (SENIOR ADVOCATE)
SRI.K.JOHN MATHAI.

RESPONDENT(S):-

1. REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES' PROVIDENT FUNDS ORGANIZATION,
BHAVISHYANIDHI BHAVAN, P.B.NO.1016, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM.
2. RECOVERY OFFICER,
E.P.F. ORGANIZATION, PATTOM PALACE P.O.,
THIRUVANANTHAPURAM.
3. UNION OF INDIA,
REPRESENTED BY ITS SECERTARY, NEW DELHI.

R1 & R2 BY SENIOR ADVOCATE SRI.N.N. SUGUNAPALAN &
STANDING COUNSEL SMT.T.N.GIRIJA
R3 BY SRI.N.NAGARESH, ASG OF INDIA.
R3 BY ADV. SRI. AJITH KRISHNAN, ADDL.CGSC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.28426 of 2005 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF THE STATEMENT GIVEN BY THE PETITIONER
 TO THE PRINCIPAL SECRETARY DATED 21.2.2005.
- EXT.P2 TRUE COPY OF THE ORDER NO.G.O.RT.NO.1725/05/AD
 DATED 25.8.2005.
- EXT.P3 TRUE COPY OF THE ORDER OF ATTACHMENT DATED 27.7.05
 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P4 TRUE COPY OF THE NOTICE OR PROCLAMATION
 NO.KR/9990/RECOVERY/RO/TV/05 DATED 26.09.2005.
- EXT.P5 COPY OF ORDER NO.12471/PU3/05/AD DATED 17.11.2005
 ISSUED BY THE UNDER SECRETARY,AGRICULTURE (PI)
 DEPARTMENT.
- EXT.P6 TRUE COPY OF THE SALE PROCLAMATION
 NO.KR/9990/RECOVERY/TRIVANDRUM/06 DATED 08.09.2006.
- EXT.P7 TRUE PHOTO COPY OF THE NEWS ITEM APPEARED IN
 THE DESHABHIMANI DAILY DATED 22.5.2007.
- EXT.P8 TRUE PHOTOCOPY OF THE REPRESENTATION DATED 05.06.2007
 SUBMITTED TO THE HON'BLE MINISTER FOR AGRICULTURE.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J.

W.P(C) No.28426 of 2005-H

Dated this the 31st day of March, 2015

JUDGMENT

The petitioner challenges the attachment order passed under Exhibits P3 and P4.

2. Obviously, the petitioner is a Company which committed default in contributions towards the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [for brevity "EPF Act"]. Proceedings were taken and demands were raised, in default of which the attachment was ordered. None of the said orders leading to the demand are produced herein, nor challenged. Nor is there a contention that such orders were taken in statutory appeal(s). The only contention taken is the inability to satisfy the amounts, since the petitioner-Company floated by the Government of Kerala had become defunct due to teething problems as also persistent labour problems. It is also submitted that the Company remained closed from 26.05.2004 and though the Company is said to be functional as of now, the financial situation of the Company is said to be still in doldrums.

3. At the time of admission of the writ petition, the petitioner was granted some instalments, which was not complied with. The petitioner having been granted extension, still failed to comply with the instalments. A specific order was passed in a subsequent application filed, rejecting the claim for further extension. Hence, nothing practically survives in the writ petition.

4. However, considering the fervent plea made by the learned counsel for the petitioner on the basis of the subsequent rehabilitation proposal initiated by the Government, the petitioner shall appear before the respondent-Organisation on 30.04.2015, upon which the officer shall consider any suggestions made by the petitioner for settlement of the dues and grant sufficient time, not less than or exceeding one year, to make the payments. If the payments are in compliance with the directions issued, then definitely the recovery shall be kept in abeyance and attachment shall be lifted on the entire amounts being satisfied. However, it is made clear that the attachment shall be in force and shall be lifted only on the satisfaction of the said amounts. The contentions under Section 14B of the Act, the respondent-Organisation necessarily

has to consider the financial constraints pleaded by the petitioner-Company, as has been laid down in ***Regional P.F. Commissioner v. Harrisons Malayalam Ltd. [2013 (3) KLT 790]***.

Writ petition is disposed of as above. No costs.

Sd/-

K. Vinod Chandran,
Judge

vku/

[true copy]