

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 22905 of 2015 (K)

PETITIONER : -

K. RAJENDRAN, AGED 67 YEARS,
S/O VKRISHNA MOORTHY, DOOR NO.39/730,
HARRIKARA STREET, SULTHANPET, PALAKKAD DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU

RESPONDENTS : -

1. THE COMMISSIONER OF EXCISE,
THIRUVANANTHAPURAM, PIN:695001.
2. THE DEPUTY COMMISSIONER OF EXCISE,
PALAKKAD, PIN:678001.
3. THE EXCISE INSPECTOR,
PALAKKAD EXCISE RANGE,
PALAKKAD, PIN:678001.
4. THE MANAGER,
KERALA STATE BEVERAGES CORPORATION,
PALAKKAD, PIN:678001.
5. THE EXCISE INSPECTOR,
KERALA STATE BEVERAGES CORPORATION,
WAREHOUSE, PALAKKAD, PIN:678001.

R4 BY ADV.SRI.C.S.AJITH PRAKASH,SC, BEVERAGES CORPORATION
BY Sr. GOVERNMENT PLEADER SRI. K.C. VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 22905 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT
DATED 28.8.2014 AS NO.P6-8809/14.

EXHIBIT P1(a) : TRUE ENGLISH TRANSLATION OF EXHIBIT P1.

EXHIBIT P2 : TRUE COPY OF THE CHALAN RECEIPT NO.398, SHOWING THE
PAYMENT OF COMPOUNDING FEE DATED 3.8.2014.

EXHIBIT P3 : TRUE COPY OF THE CHALAN RECEIPT NO.386, SHOWING THE
PAYMENT OF COMPOUNDING FEE DATED, 3.8.2014.

EXHIBIT P4 : TRUE COPY OF THE ORDER IN CRL.M.P.NO.61/2015 OF THE
J.F.C.M.III, PALAKKAD DATED 29.1.2015.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 22905 of 2015

Dated this the 19th day of August, 2015

JUDGMENT

The petitioner, who initially had FL-3 licence, now has FL-11 licence for conducting a Beer and Wine Parlour. On 25.07.2014, the third respondent along with Excise party conducted an inspection of the parlour run by the petitioner and seized 323 cases of Beer, which were kept for sale in the Hotel. Consequently, Crime No.49/2014 was also registered on the file of the Palakkad Excise Range for an offence under Section 55(h) of the Abkari Act.

2. In the course of time, the petitioner filed an application under Section 457 of the Code of Criminal Procedure before the Judicial First Class Magistrate-III, Palakkad, for getting interim custody of the seized beer.

3. The learned Magistrate having considered the issue eventually issued Exhibit P4 interim order, *inter alia*,

directing the fourth respondent to settle the claims, if any, made by the petitioner after apportioning the stock. It appears that the petitioner has filed the present writ petition seeking enforcement of Exhibit P4 order of the Judicial First Class Magistrate-III, Palakkad.

4. Today, at the bar, the learned Standing Counsel for the fourth respondent has placed before the Court an interim order, dated 18.02.2015, issued by the Court of Sessions, Palakkad Division in Criminal Miscellaneous Petition No.423/2015 filed assailing Exhibit P4 order. As it can be seen, the execution of Exhibit P4 has been stayed by the Court of Sessions till the disposal of Criminal Revision Petition. As such, I am of the opinion that the writ petition cannot be sustained.

In the facts and circumstances, this writ petition is closed with liberty to the petitioner to pursue other statutory remedies, if any.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-