

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 27970 of 2009 (M)  
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PETITIONER(S):  
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V.R.RAMESH, AGED 42, S/O.RAMANANDA NAIK,  
VATTHERI PARAMBIL, KUZHUPILLY, AYYAMPILLY P.O.  
ERNAKULAM DISTRICT.

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENT(S):  
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1. STATE OF KERALA, REPRESENTED BY  
SECRETARY, MINISTRY OF REVENUE, GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM.
2. THE DEPUTY TAHASILDAR,  
(RR) TALUK OFFICE, KOCHI.
3. THE VILLAGE OFFICER,  
KUZHUPILLY VILLAGE, KUZHUPILLY P.O.
4. THE DISTRICT EXECUTIVE OFFICER,  
KERALA MOTOR TRANSPORT WORKERS WELFARE FUND, BOARD  
PALARIVATTOM, KOCHI-25.

BY ADV. SRI.P.RAMAKRISHNAN, SC,KMTWF BOARD  
BY GOVERNMENT PLEADER SRI. R. RANJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
20-03-2015, ALONG WITH WPC. 33090/2014, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

WP(C).No. 27970 of 2009 (M)

APPENDIX

EXHIBITS

- P1- TRUE COPY OF DEMAND NOTICE DATED 20.5.2000 FROM R2
- P2- TRUE COPY OF RECEIPT DATED 31.1.2001 FOR RS.40,000/-
- P3- TRUE COPY OF JUDGMENT DATED 8.2.2007 IN O.P.10178 OF 2003

//True Copy//

P.S. To Judge

**K.VINOD CHANDRAN, J**

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W.P.(C).Nos. 27970/2009 & 33090/2014  
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Dated 20<sup>th</sup> March, 2015  
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**JUDGMENT**

Identical petitioner, in both the writ petitions, is concerned with the coverage made of the Stage Carriage owned by the petitioner, under the Motor Transport Workers Welfare Fund Act, 1985 (Kerala) which, he submits, has been operated on the basis of a partnership deed. The issue is covered by a judgment of this Court in O.P.10178 of 2003 dated 08.02.2007 which is produced as Ext.P1 in W.P.(C).33090/2014. The issue with respect to the liability stands covered against the Board insofar as the petitioner is concerned, by the aforesaid judgment inter parties. Hence, for the year 2000-01 also, no recovery should be initiated against the petitioner. W.P.(C).33090/2014 hence would stand allowed. The same is allowed in the same terms as Ext.P1 judgment, since Ext.P1 has

specifically noticed that the Kerala Motor Transport Workers Welfare Fund Act would not be applicable only with respect to the persons who are said to be partners and parties to the said writ petition.

2. W.P.(C).27970 of 2009 is a writ petition filed for recovery of the amounts which the petitioner paid, when O.P.10178 of 2003 was pending before this Court. It is submitted that while disposing of the Original petition, the petitioner did not seek for refund of the amounts so deposited during the pendency of the Original petition. It is to be noticed that the Original petition filed in the year 2003 was disposed of on 08.02.2007. Even when the above writ petition was filed, the petitioner did not seek for refund before the authorities. The petitioner has chosen to appear before this Court to invoke the extraordinary jurisdiction

under Article 226 of the Constitution of India for seeking refund.

3. It is trite that without a request made to the appropriate authority no mandamus can be issued. In such circumstances, what has gone into the coffers of the State would remain so. This Court declines exercise of extraordinary jurisdiction on the facts herein above. However, with respect to the attachments made, if there are no pending dues otherwise, attachment made on the property of the petitioner has to be lifted. W.P.(C).27970 of 2009 stands partly allowed.

Both the above writ petitions are disposed of as above. Parties shall suffer their respective costs.

**Sd/-**

**K.VINOD CHANDRAN**  
**Judge**

Mrcs