

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 25453 of 2015 (F)

PETITIONER :

**PONNAMA VARGHESE
D/O.KUNJAMMA OONNUNI, AGED 57 YEARS
AINS COTTAGE, TC 32/1092
BEACH P.O., THIRUVANANTHAPURAM.**

**BY ADVS.SRI.SUMAN CHAKRAVARTHY
SRI.A.S.ANILKUMAR**

RESPONDENT(S) :

- 1. THE KERALA STATE CONSUMER REDRESSAL FORUM
VAZHUTHACAUD, THIRUVANANTHAPURAM
REPRESENTED BY ITS REGISTRAR – 695 001.**
- 2. T.C.MATHAI
PONNAKUZHAYIL HOUSE, RAMANCHIRA,
MUTHOOR P.O., THIRUVALLA
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER K. MATHEWS
AGED 77 YEARS, S/O.MATHEW, ANUGRAHA
NO.1, 3RD MAIN ROAD, ANNAJI NAGAR
K.K.NAGAR WEST, CHENNAI, TAMIL NADU – 600 078.**
- 3. ELIZABETH MATHAI
PONNAKUZHAYIL HOUSE, RAMANCHIRA, MUTHOOR P.O.,
THIRUVALLA
REPRESENTED BY POWER OF ATTORNEY HOLDER
K.MATHEWS, AGED 77 YEARS
S/O.MATHEW, ANUGRAHA, NO.1
3RD MAIN ROAD, ANNAJI NAGAR, K.K.NAGAR WEST
CHENNAI, TAMIL NADU – 600 078.**

R1 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).No. 25453 of 2015 (F)

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT-P1: A TRUE COPY OF THE JUDGMENT DATED 11/4/2008 IN OP 243/1992.**
- EXHIBIT-P2: A TRUE COPY OF JUDGMENT DATED 12/8/10.**
- EXHIBIT-P3: A TRUE COPY OF THE RECEIPTS EVIDENCING PAYMENT IN
CC.NO. 193/1992.**
- EXHIBIT-P4: A TRUE COPY OF THE STATEMENT FILED BY THE JUDGMENT DEBTOR
BEFORE THE COMMISSION.**
- EXHIBIT-P5: A TRUE COPY OF THE JUDGMENT DATED 14/10/2014 IN
WP(C) 19384/2014.**
- EXHIBIT-P6: A TRUE COPY OF THE STATEMENT FILED BY THE DECREE HOLDER
DATED 27/1/15.**
- EXHIBIT-P7: A TRUE COPY OF THE ORDER DATED 9/6/2015 IN EA 1/2011.**
- EXHIBIT-P8: COPY OF THE ORDER SHEET ISSUING WARRANT IN EA 1/11.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 25453 of 2015

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Dated this the 15th day of October, 2015

J U D G M E N T

The petitioner approached this Court by an order passed by the State Consumer Disputes Redressal Commission. The matter related to a calculation statement of the amount payable by the petitioner. In fact this Court had directed the Commission to reconsider the matter as per Ext.P5 judgment. Thereafter it was considered as per Ext.P7 order.

2. It is obvious that Commission has not considered the calculation statement in right perspective. The reason for rejection of the petitioner's statement stating that the statement of account produced by the petitioner is not a detailed one and giving credit to the payments as on the date of payment and the statement furnished by the decree holder is the detailed one.

3. This Court is of the view that the order is erroneous and procedurally suffered from infirmity. The Commission ought to have exercised the mind with respect to the order and calculate the

amount instead of referring to the statement filed by the parties and decide exact amount due under the order.

2. In the above facts and circumstances, this Court is of the view that if the Commission is unable to calculate the amount, the Commission ought to have appointed a Chartered Accountant to calculate the amount at the cost of the petitioner. The petitioner also submits that the amount payable under Ext.P12 cheque has already been paid through criminal court and the Commission ought to have adverted to the above aspect while deciding further. After taking note of the above, it is open for the Commission to appoint a Chartered Accountant if necessary for determination of the amount due from the petitioner. In view of the above Ext.P7 order is set aside and fresh order shall be passed. The decision shall be taken within one month from the date of receipt of the copy of this judgment.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE