

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

WP(C).No. 26506 of 2015 (K)

PETITIONER(S):

**PRAVEEN KUMAR AGED 45 YEARS
S/O.N.SOMANATHAN PILLAI, VILAYIL VEEDU, MANIYAR
PUNALUR, KOLLAM DISTRICT.**

**BY ADVS.SRI.BIMAL K.NATH
SMT.SONIYA.M
SRI.SREEVALSAN.V
SMT.M.K.SHIMI
SMT.DIVYA C BALAN
SRI.D.SREENATH**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR
KOLLAM 691 001.**
- 2. THE DEPUTY TAHSILDAR (RR)
TALUK OFFICE, PUNALUR, KOLLAM 691 001.**
- 3. THE VILLAGE OFFICER
PUNALUR, KOLLAM 691 001.**
- 4. THE DEPUTY LABOUR OFFICER
OFFICE OF DEPUTY LABOUR OFFICER, PUNALUR
KOLLAM 691 001.**

R BY GOVERNMENT PLEADER, SMT. LILLY K.T.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 26506 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF THE RR NOTICE NO.C3 6282/2015 DATED 1.6.2015
(DN 392/15-16)**

**EXHIBIT P2. COPY OF THE RR NOTICE DATED 1.6.2015 ISSUED BY THE 2ND
RESPONDENT (D/N.393/15-16)**

EXHIBIT P3. COPY OF THE NOTICE DATED 27.09.2014.

EXHIBIT P4. COPY OF THE REPRESENTATION DATED 24.8.2015.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 26506 of 2015

Dated this the 2nd day of September, 2015

JUDGMENT

The challenge in the writ petition is against Exts.P1 and P2 notices issued to the petitioner under the Revenue Recovery Act, for recovery an amount of Rs.16,952/- being arrears of Cess under the Building and Other Construction Workers Welfare Cess Act, 1996. It is the case of the petitioner that, while Exts.P1 and P2 notices under the Revenue Recovery Act have been served on him, he has not been favoured with a copy of the order, on the basis of which the said Revenue Recovery notices have been issued to him. It is his case that he was served with only Ext.P3 assessment notice dated 27.09.2014 and thereafter, he was not called for a hearing and no order of assessment was served on him. It is under these circumstances that Exts.P1 and P2 notices have been impugned in the writ petition.

2. I have heard the learned counsel appearing for the petitioner as also the learned Government Pleader appearing for the respondents.

3. The learned Government Pleader on instructions would submit that, even in Ext.P3 notice it is indicated that the petitioner

was afforded a hearing on 21.10.2014 and the confirmation of the assessment against the petitioner would have been pursuant to the hearing on that day.

4. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I am of the view that, insofar as there is no appeal preferred against the order confirming the assessment against the petitioner, the petitioner cannot seek a direction to quash Exts.P1 and P2 notices in these proceedings under Article 226 of the Constitution of India. Taking note of the plea of financial hardship projected on behalf of the petitioner, I dispose the writ petition with the following directions:

- (i) The total amount due from the petitioner as evidenced by Exts.P1 and P2 notices is Rs.16,952/- together with interest from 30.11.2014 and other charges. Accordingly, if the petitioner pays the said amount of Rs.16,952/- together with interest and other charges in three equal and successive monthly installments commencing from 15.09.2015, then, further proceedings pursuant to Exts.P1 and P2 shall be kept in abeyance.
- (ii) It is made clear that, if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and

the respondent will be free to continue the recovery proceedings against him from the stage at which they presently stand.

I make it clear that, nothing in this judgment shall prevent the petitioner from pursuing his appellate remedies against the final order of assessment, as and when he receives a copy of the same.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE