

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 30867 of 2013 (G)  
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PETITIONER:  
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AJITH MATHEW  
MODIYIL PARAPPURATH, VADKKUMURIYIL, ALA P.O.  
CHENGANNUR-689121.

BY ADVS. SRI. P. RAMAKRISHNAN  
SMT. PREETHI KESAVAN  
SRI. T. C. KRISHNA  
SRI. C. ANIL KUMAR  
SMT. ASHA K. SHENOY  
SRI. PRATAPABRAHAM VARGHESE

RESPONDENTS:  
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1. NIKHIL. K. S  
S/O. SREENIVASAN, MODIYIL, ALA NORTH PO  
CHENGANNUR-689121.
2. THE PUNCHA SPECIAL OFFICER & DEPUTY COLLECTOR,  
ALAPPUZHA-688001.
3. THE STATE OF KERALA  
REPRESENTED BY THE SECRETARY  
LABOUR & REHABILITATION, GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM-695001.

R1 BY ADV. SRI. N. ASHOK KUMAR  
R2 & R3 BY SENIOR GOVERNMENT PLEADER SRI. SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-11-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 30867 of 2013 (G)  
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APPENDIX

PETITIONER'S EXHIBITS  
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P1. TRUE COPY OF THE COMPLAINT DATED 12-3-2012 SUBMITTED BY THE 1ST  
RESPONDENT BEFORE THE DISTRICT LABOUR OFFIER, ALAPPUZHA.

P2. TRUE COPY STATEMENT DATED 2-5-2012 SUBMITTED BY THE PETITIONER BEFORE  
THE LABOUR COURT,ALAPPUZHA.

P3. TRUE COPY OF THE ORDER DATED 5-8-2013 PASSED BY THE 2ND RESPONDENT.

P4. TRUE COPY OF THE NOTICE DATED 7-7-2013 OF THE 3RD RESPONDENT.

P5. TRUE COPY OF THE NOTICE DATED 7-7-2013 OF THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS : NIL  
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//TRUE COPY//

PA. TO JUDGE

smv

**SHAJI P. CHALY, J.**

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**W.P.(C). No.30867 of 2013**  
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**Dated this the 13<sup>th</sup> day of November, 2015**

**JUDGMENT**

This Writ Petition is filed by the petitioner seeking to quash Ext.P3 order passed by the 2<sup>nd</sup> respondent and consequent actions pursuant to Exts.P4 and P5 demands under the Kerala Revenue Recovery Act.

2. Brief facts for the disposal of the Writ Petition are as follows:

3. First respondent has filed Ext.P1 complaint before the 2<sup>nd</sup> respondent contending that out of Rs.350/- payable as wages to the 1<sup>st</sup> respondent, an amount of Rs.100/- was retained by the petitioner and accordingly an amount of Rs.1,49,000/- was due to the 1<sup>st</sup> respondent from the petitioner.

4. Pursuant to Ext.P1 complaint the petitioner entered appearance and filed Ext.P2 objection refuting the allegations, claims and statements contained in Ext.P1 and contended that 1<sup>st</sup> respondent has worked with the petitioner for sometime as

Agricultural Worker, sometime as Helper in a lorry and intermittently he has left the service of the petitioner without assigning any reason. Whenever 1<sup>st</sup> respondent turned out for work, petitioner has provided work to him but at no point of time the wages that was payable to the 1<sup>st</sup> respondent was detained by the petitioner. Therefore, it was contended that the 1<sup>st</sup> respondent is not entitled to any claim raised as per Ext.P1.

5. However, the 2<sup>nd</sup> respondent after considering Ext.P1 complaint and Ext.P2 objection has passed an order directing the petitioner to pay an amount of Rs.75,000/- to the 1<sup>st</sup> respondent. Aggrieved by Ext.P3 order and consequential demands made thereunder, this Writ Petition is preferred by the petitioner.

6. Heard learned counsel for the petitioner Sri.T.C.Krishna, learned Senior Government Pleader Sri. Sojan James and learned counsel for the first respondent Sri. N. Ashok Kumar.

7. Having considered the rival submissions, the sole point that is to be considered by this Court to arrive at a conclusion is whether there is any illegality or irrationality in Ext.P3 order passed by the 2<sup>nd</sup> respondent warranting interference of this Court under Article 226 of the Constitution of India. With the above view in my mind, I perused Ext.P3 and find that even

though 2<sup>nd</sup> respondent has directed the petitioner to pay an amount of Rs.75,000/- to the 1<sup>st</sup> respondent, no reasons are assigned by the 2<sup>nd</sup> respondent as to how he has arrived at such a conclusion. It is clear from Ext.P3 order that no evidence was adduced by the 1<sup>st</sup> respondent to substantiate his case that he is entitled to the amounts claimed in Ext.P1 complaint. However, without any basis the 2<sup>nd</sup> respondent had held that 1<sup>st</sup> respondent is entitled to an amount of Rs.75,000/- taking into account his physical condition also. I do not think that the said order passed by the 2<sup>nd</sup> respondent will stand the test of law. According to me, the decision arrived at by the 2<sup>nd</sup> respondent is without any sort of evidence before it. Therefore, Ext.P3 order passed by the 2<sup>nd</sup> respondent is liable to be quashed. Accordingly I do so. Needless to say Exts.P4 and P5 demand notices issued pursuant to Ext.P3 will not survive. Therefore the said demands are also set aside.

8. But however there will be a direction to the 2<sup>nd</sup> respondent to take back to its file Ext.P1 complaint, and Ext.P2 objection and re-consider the matter after providing reasonable opportunity to the petitioner as well as the 1<sup>st</sup> respondent. Petitioner as well as the 1<sup>st</sup> respondent will be entitled to

produce necessary documentary evidence and adduce oral evidence before the 2<sup>nd</sup> respondent so as to substantiate their respective cases. The whole exercise shall be completed within a period of two months from the date of receipt of a copy of this judgment after taking into account the directions contained above.

Sd/-  
**SHAJI P. CHALY**  
**JUDGE**

//true copy//

P.A. To Judge

smv  
13.11.2015