

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 36027 of 2007 (L)

PETITIONER:

**RUKIA, W/O.GAFFOR, 6/1313, PALAKKAT
PARAMBU, MATTANCHERRY, KOCHI-2.**

**BY ADVS.SRI.K.RAVEENDRAN
SRI.K.N.BALAKRISHNAN NAIR**

RESPONDENTS:

- 1. GOVERNMENT OF INDIA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT
MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)
CENTRAL SECRETARIAT, NEW DELHI.**
- 2. THE APPELLATE TRIBUNAL BY ITS
REGISTRAR OF THE APPELLATE TRIBUNAL FOR
FORFEITED PROPERTY, 4TH FLOOR, 'A'WING
LOK NAYAK BHAVAN, KHAN MARKET, NEW DELHI-110 003.**
- 3. THE COMPETENT AUTHORITY,
OFFICE OF THE COMPETENT AUTHORITY
SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS
(FORFEITURE OF PROPERTY) ACT, 1976, UTSAV
NO.164/1 GN CHETTY ROAD, T.NAGAR, CHENNAI - 600017.**
- 4. THE DISTRICT COLLECTOR, ERNAKULAM,
KAKKANAD, KOCHI-30.**

**R1 - R3 BY SRI.N. NAGARESH,ASG OF INDIA
R4 BY GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE ORDER NO.OC/MDS/2635 DATED 18.10.1994
PASSED UNDER SECTION 7(1) OF THE SAFEM (FOP) ACT
- P2 : TRUE COPY OF THE ORDER DATED 17.3.1999 UNDER SECTIO 19(1) OF
THE SAFEM (FOP) ACT
- P3 : TRUE COPY OF THE JUDGMENT IN O.P. NO.512 OF 2000 DATED
6.12.2006 OF THIS HON'BLE COURT
- P4 : TRUE COPY OF THE OBJECTION DATED 12.3.2007 SUBMITTED BY
PETITIONER BEFORE THE 3RD RESPONDENT
- P5 : TRUE COPY OF THE ORDER DATED 5.4.2007 PASSED BY THE 3RD
RESPONDENT
- P6 : TRUE COPY OF THE ORDER DATED 9.4.2007 OF THE 3RD
RESPONDENT
- P7 : TRUE COPY OF THE APPEAL MEMORANDUM FILED BY THE
PETITIONER BEFORE THE APPELLATE TRIBUNAL FOR FORFEITED
PROPERTY, NEW DULHI.

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 36027 of 2007 (L)

Dated this the 10th day of August, 2015

J U D G M E N T

The petitioner in the aforesaid case is aggrieved with Ext.P6 order requiring delivery of possession of a house site measuring 5.26 cents in Survey Nos.29/1 and 87/2 at Mattancherry Village, together with a building having a plinth area of 900 square feet at the address VI/1313 Pallakkattu Parambu, Near Syndicate Bank, Mattancherry, Cochin-2.

2. Ext.P6 was issued in pursuance of Ext.P5 order. When proceedings were taken under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 against the petitioner's husband, the petitioner and her husband were both here with separate writ

petitions, alleging that no notice was issued to them. By Ext.P3, this Court directed the petitioner and her husband be present on 8.2.2007 before the authority, upon which the authority would afford an opportunity for hearing within another two months and pass an order. Ext.P5 is passed on 5.4.2007 complying with the directions in Ext.P3 judgment.

3. The grievance of the petitioner herein, the wife, was insofar as Ext.P6 notice having been issued immediately on Ext.P5 order being passed, without permitting the petitioner to avail of the appellate remedy, for which there was still time as on the date of issuance of Ext.P6. The petitioner is also said to have filed an appeal at Ext.P7. At this distance of time, there is absolutely no reason to keep the writ petition pending, in which there was a stay granted as early as on 5.12.2007. That would only enable the petitioner to prosecute the appeal.

In such circumstance, the writ petition would stand dismissed, making the proceedings subject to the result of the appeal filed before the appellate authority.

Sd/-
K.VINOD CHANDRAN,
JUDGE