

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937**

**WP(C).No. 30296 of 2015 (J)**  
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**PETITIONER :**  
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**HARIDASAN, AGED 77 YEARS  
S/O.CHOZHY, THIRUNARAYANAPURAM, OTTAPALAM TALUK  
PALAKKAD DISTRICT.**

**BY ADVS.SRI.SUNIL NAIR PALAKKAT  
SRI.K.N.ABHILASH**

**RESPONDENT(S) :**  
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- 1. THE STATE OF KERALA  
REP. BY THE SECRETARY  
REVENUE DEPARTMENT OF THE GOVERNMENT OF KERALA  
SECRETARIAT, TRIVANDRUM, PIN 695 001.**
- 2. THE DISTRICT COLLECTOR  
PALAKKAD DISTRICT, COLLECTORATE,  
PALAKKAD - 679 001.**
- 3. THE SPECIAL DEPUTY TAHSILDAR (RR)  
REVENUE REVOCERY, OTTAPPALAM TALUK,  
PALAKKAD - 679 101.**
- 4. THE VILLAGE OFFICER  
VELLINEZHI VILLAGE, OTTAPPALAM TALUK  
PALAKKAD - 679 101.**
- 5. ANEEMA,  
AGED 35 YEARS, W/O.GIRISH KUMAR  
PALATTU ROAD, OTTAPALAM,  
PALAKKAD DISTRICT -679 101.**
- 6. DOTTYMOL  
NEAR VELLINEZHI VILLAGE,  
H.NO.12/173, PATTAMBI  
PALAKKAD DISTRICT-679 101.**

**R1 TO R4 BYGOVT. PLEADER SMT. K.T. LILLY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 02-12-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**Mn**

**...2/-**

**WP(C).No. 30296 of 2015 (J)**  
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**APPENDIX**

**PETITIONERS' EXHIBITS :**  
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**EXT. P1-        TRUE COPY OF THE SALE DEED NO.1075/1984 DATED 30.3.1984 OF  
                     SRO CHERUPPULASSERY EXECUTED IN FAVOUR OF THE PETITIONER.**

**EXT. P2-        TRUE COPY OF THE LAND TAX RECEIPT ISSUED BY THE 4TH  
                     RESPONDENT DATED 28.5.2015.**

**RESPONDENT(S)' EXHIBITS :        NIL**  
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**//TRUE COPY//**

**P.S. TO JUDGE**

**Mn**

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.30296 of 2015

.....  
Dated this the 2<sup>nd</sup> day of December, 2015

**J U D G M E N T**

The petitioner has approached this Court aggrieved by the revenue recovery steps initiated by respondents 1 to 4 for recovery of amounts that are due from his son. In the writ petition, the specific case of the petitioner is that, for the sole reason that the petitioner's son was residing with him in his residence, the respondents, acting upon the revenue recovery notices issued against the son of the petitioner, entered the residential premises of the petitioner and took away various articles including movable articles belonging to the petitioner. The prayer in the writ petition is for a direction to the respondents to refrain from proceeding against the properties belonging to the petitioner for recovery of amounts due from his son.

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

3. A counter affidavit has been filed on behalf of the 3<sup>rd</sup> respondent wherein the sequence of events leading to the recovery

of movable properties that was effected from the house of the petitioner is narrated. I find from a perusal of the counter affidavit that there was some altercation at the residence of the petitioner at the time when the official respondents arrived at the residential premises of the petitioner for the purposes of effecting recovery of movable properties belonging to the petitioner's son. It is also apparent that apart from the movable properties belonging to the petitioner's son, who is the defaulter, there were certain other items of movable property, the ownership of which, in the petitioner's son, could not be established. The said items were also taken possession of by the official respondents. In the statement filed on behalf of the 3<sup>rd</sup> respondent on 28.10.2015, it is seen that three items of movable property namely, a wooden table without drawer, a wooden divan cot and a motor bike having registration No.KL9 M 4982 were taken possession of by the official respondents. While the motor bike is one that belongs to the petitioner's son, who is the defaulter, the other two items appear to belong to the petitioner, and at any rate, there is nothing to indicate that the said items belonged to the petitioner's son. Accordingly, I dispose the writ petition with the following directions:

- i. The respondents 1 to 4 shall ensure that while proceeding against the petitioner's

son in accordance with the provisions of the Revenue Recovery Act, no steps shall be taken against the properties either movable or immovable belonging to the petitioner.

ii. The respondents shall forthwith return the two items of property namely, the wooden table without drawer and the wooden divan cot, that were taken from the premises of the petitioner, to the same premises. It is made clear that, the respondents can retain custody of the motor bike bearing registration No.KL9 M 4982 since the said vehicle belongs to the petitioner's son, who is the defaulter.

Iii. I make it clear that, nothing in this judgment shall stand in the way of respondents 1 to 4 pursuing any legal action in accordance with the provisions of the Revenue Recovery Act against the petitioner's son, who is the defaulter for the purposes of the Revenue Recovery Act.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

