

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 34770 of 2008 (L)

PETITIONER :

**SUMATHY SUKUMARAN, AGED 58 YEARS,
W/O.SUKUMARAN, KARAKUNNATHU HOUSE, KOLAPARAKARA
KUDAYATHOOR P.O., THODUPUZHA.**

**BY ADVS.SRI.RENJITH B. MARAR
SRI.L.RAJESH NARAYAN IYER
SMT.LAKSHMI.N.KAIMAL
SRI.C.V.MANUVILSAN
SRI.P.G.SURESH
SRI.G.SUDHEER (THURAVOOR)
SMT.K.VIDYA
SRI.RAJAN VISHNURAJ**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
EXCISE DEPARTMENT.**
- 2. THE DISTRICT COLLECTOR,
IDUKKI.**
- 3. THE TAHSILDAR,
THODUPUZHA TALUK.**
- 4. THE REVENUE DIVISIONAL OFFICER,
IDUKKI.**
- 5. THE WELFARE FUND INSPECTOR,
TODDY WORKERS WELFARE FUND BOARD,
THODUPUZHA.**
- 6. MANI,
S/O.SIVASANKARA PILLAI,
PALANICKAL, KUMARAMANGALAM, THODUPUZHA.**

**R1 TO R4 BY GOVT. PLEADER SRI. MANOJ KUNJACHAN
R5 BY ADV. SRI. RENIL ANTO, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE DEMAND NOTICE ISSUED TO THE PETITIONER DATED 15.10.1996.
- EXT.P2 DEMAND NOTICES ISSUED UNDER SECTION 7 OF THE REVENUE RECOVERY ACT TO THE PETITIONER.
- EXT.P3 DEMAND NOTICES ISSUED UNDER SECTION 7 OF THE REVENUE RECOVERY ACT TO THE PETITIONER.
- EXT.P4 COPY OF THE NOTICE ISSUED UNDER SECTION 36 OF THE REVENUE RECOVERY ACT.
- EXT.P5 COPY OF THE SALE NOTICE.
- EXT.P6 COPY OF THE ORDER BEARING NO. 532/04/K.DIS. DATED 15.2.2006.
- EXT.P7 COPY OF THE ORDER BEARING NO. B3.532/2004/K.DIS DATED 31.1.2006.
- EXT.P8 COPY OF THE NOTICE DATED 20.10.2008.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J.

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W.P.(C) No.34770 of 2008 - L

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Dated this the 9th day of February, 2015

J U D G M E N T

The petitioner is aggrieved with the demand made as per Ext.P8, for realisation of dues under the Kerala Toddy Workers' Welfare Fund Act, 1969. The petitioner admittedly had been carrying on toddy shop Nos. 81 to 85 and 94 to 101 of the Idukki Excise Range as the licensee, for the Abkari years 1994-95. The petitioner also admits that there was arrears with regard to the contributions and for realisation of such arrears, the immovable property of the petitioner was attached and sold. However, later on, again Ext.P8 notice was issued and the petitioner was of the bona fide belief that the entire amounts due were realised on earlier sale of the petitioner's property. The petitioner herein, is aggrieved with the further attachment and sale attempted against the residential property of the petitioner.

2. The liability is admitted and there is no appeal

filed from the determination orders. The Board has filed a detailed counter affidavit, wherein, it has been stated that the petitioner had committed default of the advance contributions to be made in accordance with the Act. When final assessment orders were passed, the said contributions as also the interest due on default, on advance contributions were mulcted on the petitioner. Rs.1,54,202/- is said to have been recovered in instalments and Rs.35,281 was received on sale of two properties.

3. In any event, the Board asserts that as per the records, there is an amount of Rs.1,42,783/- due as principal and interest to the tune of Rs.3,55,746/-; as on 15.01.2009. Evidently, there would be interest liability subsequent to that also, if the amounts are not satisfied till date. In such circumstance, the 5th respondent shall give credit to whatever amounts have been paid and the amounts if any paid by virtue of the interim orders of this Court and then issue a statement of the present dues to the petitioner, by registered post, within a period of one month

from today. The petitioner shall also be granted six monthly instalments to pay off the dues, which shall be specified in the communication addressed to the petitioner. If any single default is committed in payment of the instalments, then the recovery proceedings against the petitioner shall be revived. The recovery proceedings shall be kept in abeyance on compliance of the aforesaid conditions and the further proceedings shall be on the requisition of the 5th respondent.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge