IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 35005 of 2011 (A)

PETITIONER :

PUSHPALATHA,
W/O.NARAYANANUNNI, VADAKKEPPATT HOUSE
THIRUVEGAPPURA P.O., OTTAPPALAM,
PALAKKAD DISTRICT.

BY ADV. SRI.KOSHY GEORGE

RESPONDENT(S) :

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1. THE STATE OF KERALA,
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, SECRETARIAT
   THIRUVANANTHAPURAM - 695 023.

2. THE COMMISSIONER OF LAND REVENUE,
   REVENUE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM - 695 023.

3. THE TAHSILDAR,
   TALUK OFFICE, OTTAPALAM - 679 101.

4. THE VILLAGE OFFICER,
   THIRUVEGAPPURA VILLAGE OFFICE,
   OTTAPALAM - 679 101.

5. SANKARANARAYANAN,
   S/O.RAVUNNI NAIR, PACHERY HOUSE,
   THIRUVEGAPPURA POST, OTTAPALAM
   PALAKKAD DISTRICT- 679 304

...2/-

*ADDL. R6 IMPLEADED
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*ADDL.R6. KOZHIKKOTTIL UNNIKRISHNAN
S/O.KOZHIKKOTTIL RAMAN, KOZHIKKOTTIL VEEDU
PURAMANNUR P.O., MALAPPURAM DISTRICT.

*IMPLEADED AS PER ORDER DATED 11/8/14 IN IA NO. 10581/14.

R1 TO R4 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN
R5 BY ADVS. SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN
ADDL. R6 BY ADV. SRI.JAMSHEED HAFIZ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-07-2015, ALONG WITH WPC. 6198/2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 35005 of 2011 (A)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1	TRUE COPY OF THE ENCUMBRANCE CERTIFICATE DT.18.10.2004 ISSUED BY SUB REGISTRAR OFFICE, VILAYUR.
EXT.P2	TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, THIRUVEGAPPURA DT. 8.5.2002.
EXT.P3	TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT DT.14.10.2009 TO THE PETITIONER.
EXT.P4	TRUE COPY OF THE REPLY DT.27.10.2009 FILED BY THE PETITIONER.
EXT.P5	TRUE COPY OF THE ORDER OF THE 3RD RESPONDENT.
EXT.P6	TRUE COPY OF REVISION PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DT. 27.2.2010.
EXT.P7	TRUE COPY OF THE STAY PETITION BEFORE THE 2ND RESPONDENT DT. 27.2.2010.
EXT.P8	TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C).NO.9480/10 DT. 22.3.2010.
EXT.P9	TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DT. 29.9.2010.
EXT.P10	TRUE COPY OF THE REVISION PETITION U/S 83(2) OF THE REVENUE RECOVERY ACT FILED BY THE PETITIONER BEFORE THE IST RESPONDENT DT. 27.2.2011.
EXT.P11	TRUE COPY OF THE ORDER ISSUED BY THE IST RESPONDENT TO THE PETITIONER DT. 27.8.2011.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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K. Vinod Chandran, J

W.P.(C).Nos.35005 of 2011-A & 6198 of 2012-Y

Dated this the 29th day of July, 2015

JUDGMENT

Both the writ petitions are with respect to the identical issue. W.P.(C).No.35005 of 2011 challenges the revenue recovery proceedings initiated, while W.P.(C).No.6198 of 2012 seeks implementation of the said proceedings.

2. W.P.(C).No.35005 of 2011 is taken as the leading case and the parties and documents are referred to as stated in the said writ petition. The admitted facts are that, one Janaki died out of an employment injury while employed with one Sankaranarayanan. Sankaranarayanan's daughter-in-law is the petitioner in W.P.(C).No.35005 of 2011, who seeks to avoid the distress created on the property, which she got conveyed from Sankaranarayanan. The additional 6th respondent in W.P.(C).No.35005 of 2011, who is the petitioner in W.P.(C).No.6198 of 2012, is the son of the deceased Janaki, one of the claimants before the Employee's Compensation Commissioner.

3. The death occurred on 22.02.1998. The son of the deceased, along with other legal heirs, approached the Employee's Compensation Commissioner for compensation and an award dated 19.06.2006 was passed determining an amount of Rs.1,63,070/- [Rupees one lakh, sixty three thousand and seventy only] with 12% interest from the date of accident, as the compensation. Though the award is not produced in both the writ petitions, it is an admitted fact that it has become final. The issue to be considered is whether the recovery proceedings can be proceeded against the daughter-in-law of the employer, who claims to be a *bonafide* purchaser of two properties from the employer.

4. Sankaranarayanan transferred two items of property to his daughter-in-law by deed Nos.1456/99 and 1386/06, both of Sub Registrar's Office, Vilayur, dated respectively 22.07.1999 and 10.07.2006; both after the death of Janaki. The daughter-in-law contends that the said purchases were *bonafide* purchases, for consideration paid to the father-in-law and merely because the vendee is a close relative of the vendor, there can be no distress created on the property.

5. Section 14A of the Employee's Compensation Act, 1923 [for brevity “the Act”] creates a statutory charge on the assets of an employer on the liability accrued before the date of the transfer. This Court in ***K.Sreedharan v. Thajudeen Koya*** **[1996 (1) KLJ 246]** and ***National Insurance Co. Ltd. v. Rekha*** **[2007 (4) KLT 386]** found that the statutory charge would start from the accrual of the liability which could be related back to the date of injury. Hence, both the transactions, that occurred after the death of the employee, would be subject to the statutory charge created by Section 14A of the Act. In such circumstance, W.P.(C). No.35005 of 2011 would stand dismissed.

6. W.P.(C).No.6198 of 2012 is allowed, directing implementation of the revenue recovery proceedings. However, in the context that the writ petitions pending for long before this Court, the petitioner in W.P.(C).No.35005 of 2011 or her representative and if necessary the employer, and the representative of the legal heir shall appear before the Industrial Tribunal, Palakkad on 20.08.2015 and produce a copy of the award. The Industrial Tribunal shall determine the amounts payable as per the award as on 31.08.2015.

The petitioner in W.P.(C).No.35005 of 2011 or the employer shall be granted seven monthly instalments to satisfy the entire dues as determined by the Industrial Tribunal. The said amount shall be deposited on or before 10th of each succeeding month, commencing from 10.09.2015, before the Industrial Tribunal. On deposit of each such instalment, the same shall be disbursed to the legal heirs of the deceased. On satisfaction of the entire amounts, the Tribunal shall determine the future interest due from 31.08.2015 and the same shall be paid as the 8th instalment, on the next succeeding month. On satisfaction of the entire amounts, the same shall be recorded and proceedings finalised. The revenue recovery proceedings shall be kept in abeyance during the period of the instalments directed hereinabove. If any two consecutive defaults are committed by the petitioner in W.P.(C).No.35005 of 2011 or the employer, the proceedings will revive and continue against the properties also. It is made clear that the daughter-in-law of the employer can be proceeded only against the properties which have been conveyed to her by the employer - her father-in-law. On satisfaction being recorded by the Tribunal, necessarily the petitioner in W.P.(C).No.35005 of 2011 would be entitled to appear before the revenue recovery authorities, so as to seek lifting of the attachment of the properties.

Ordered accordingly. Parties are left to suffer their respective costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]