

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 33456 of 2015 (F)

PETITIONER(S) :

**K.P.RAMESAN, AGED 36 YEARS,
S/O.KANNAN, KACHERIPARAMBATH HOUSE, MEPPAYIL.P.O.,
VADAKARA, KOZHIKODE DISTRICT-673 104.**

**BY ADVS.SRI.V.S.CHANDRASEKHARAN
SRI.M.V.DAS
SMT.LEKSHMI SWAMINATHAN
SMT.MARIAN G.M.THARAKAN
SRI.S.JAYAKUMAR**

RESPONDENT(S) :

- 1. THE TAHSILDAR,
REVENUE RECOVERY, VADAKARA-673 101.**
- 2. THE DISTRICT COLLECTOR,
KOZHIKODE-673 020.**
- 3. THE COMMERCIAL TAX OFFICER,
(WORKS CONTRACT)SALES TAX COMPLEX, JAWAHAR NAGAR,
KOZHIKODE-673 001.**
- 4. THE SECRETARY,
MUNICIPALITY, VADAKARA-673 101.**

R1 TO R3 BY GOVERNMENT PLEADER SMT.LILLY.K.T

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1: TRUE COPY OF THE ASSESSMENT ORDER FOR THE YEAR 2002-2003,
DATED 13/02/2009.**
- P2: TRUE COPY OF THE TAX ASSESSMENT ORDER FOR
THE YEAR 2003-2004, DATED 13/02/2009.**
- P3: TRUE COPY OF THE CERTIFICATE ISSUED BY 4TH RESPONDENT
DATED 28.03.2014.**
- P4: TRUE COPY OF THE ATTACHMENT ORDER DATED 05/02/2015 ISSUED BY
1ST RESPONDENT.**
- P5: TRUE COPY OF SALE NOTICE DATED 26.09.2011 BY
THE 1ST RESPONDENT.**
- P6: TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.40768/-
DATED 14/03/2014.**
- P7: TRUE COPY OF THE RECEIPT FOR THE PAYMENT OF RS.96757/-
DATED 14/03/2014.**
- P8: TRUE COPY OF THE JUDGMENT DATED 26/03/2015 IN WRIT PETITION
(CIVIL)NO.9813 OF 2015.**
- P9: TRUE COPY OF ATTACHMENT LETTER DATED 09.06.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 33456 of 2015

Dated this the 11th day of November, 2015

JUDGMENT

The petitioner, who is a PWD contractor and who was confronted with revenue recovery proceedings for recovery of defaulted tax amounts, had approached this Court aggrieved by the revenue recovery proceedings through WP(C) No.9813 of 2015. The said writ petition was disposed by Ext.P8 judgment dated 26.03.2015, whereby the petitioner was given an installment facility to discharge the balance amount outstanding to the respondents. The petitioner was to remit an amount of Rs.1,00,000/- on or before 10.04.2015 and the balance amount outstanding in five equal successive monthly installments commencing from 10.05.2015 as a condition for the stay of recovery proceedings that were then initiated against him. In Ext.P8 judgment, it was also made clear that, if the petitioner commits any default in respect of any of the installments, he would lose the benefit of the judgment and the respondents would be free to continue the recovery proceedings against him from the stage at which they then stood. In the present writ petition, the grievance of the petitioner is that, by Ext.P9 attachment notice, the respondents had directed the 4th respondent, from whom amounts were due to the petitioner, to withhold amounts that were due to

the petitioner so that the same could be appropriated towards the dues outstanding from the petitioner to the 3rd respondent. It is the contention of the petitioner that it was on account of the said action of the respondents that the petitioner could not comply with the remaining part of the directions in Ext.P8 judgment.

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

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that by Ext.P8 judgment the petitioner was to remit an amount of Rs.1,00,000/- on or before 10.04.2015. This was admittedly paid by the petitioner. The petitioner was however, to pay the balance outstanding amounts in five equal successive monthly installments commencing from 10.05.2015. It is not in dispute that the petitioner did not pay the installment that was due on 10.05.2015. It was under those circumstances, that the respondents proceeded to issue Ext.P9 notice of attachment dated 09.06.2015, when it was found that the petitioner had defaulted in payment of one

installment that fell due on 10.05.2015. Insofar as the respondents were acting in compliance with Ext.P8 judgment while issuing Ext.P9 attachment notice to the 4th respondent, I do not find any illegality in the issuance of Ext.P9 notice to the 4th respondent. The petitioner, who had defaulted in payment of the installments directed by this Court in Ext.P8 judgment, cannot be heard to complain of consequential action initiated by the respondents for recovery of the amounts outstanding from the petitioner, pursuant to Ext.P8 judgment.

The writ petition, therefore fails and is accordingly, dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

W.P.(C). No. 33456 of 2015