

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 38538 of 2010 (N)

PETITIONER : -

O.N.SATHEESAN, AGED 40 YEARS,
S/O.OTTALY NATHEN,
KATTOOR P.O., THRISSUR DIST

BY ADVS.SRI.M.G.KARTHIKEYAN
SRI.NIREESH MATHEW
SRI.C.C.THOMAS (SR.)

RESPONDENTS : -

1. THE ASST.EXCISE COMMISSINER,
THRISSUR
2. THE CIRCLE INSPECTOR OF EXCISE,
THRISSUR.
3. THE EXCISE COMMISSIONER,
COMMISSIONERATE OF EXCISE,
THIRUVANANTHAPURAM.
4. STATE OF KERALA.
REP.BY SECRETARY, TAXES (A) DEPARTMENT.
GOVT.SECRETARIAT, THIRUVANANTHAPURAM
5. THE DISTRICT COLLECTOR, THRISSUR

R1-R5 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 : COPY OF THE ORDER No.R-1657/98 DATED 1.6.1998 PASSED BY THE 1st RESPONDENT.

EXHIBIT P2 : COPY OF THE NOTICE No.R5-1657/98 DATED 9.12.1998 ISSUED BY THE 1st RESPONDENT.

EXHIBIT P3 : COPY OF THE JUDGMENT DATED 5.3.2009 IN CIVIL APPEAL Nos. 1541/2009 AND CONNECTED CASES PASSED BY THE HON'BLE SUPREME COURT.

EXHIBIT P4 : COPY OF THE LICENSE No.828/97-98 ISSUED BY THE 1st RESPONDENT IN RESPECT OF T.S. No. 12 IN CHERPU EXCISE RANGE DATED 19.12.97.

EXHIBIT P5 : COPY OF THE NOTICE No. G3-9363/2000 ISSUED BY THE 5th RESPONDENT.

EXHIBIT P6 : COPY OF THE REVISION PETITION DATED 14.12.2010 SUBMITTED BEFORE THE 4th RESPONDENT.

EXHIBIT P7 : COPY OF THE STAY PETITION DATED 14.12.2010 SUBMITTED BEFORE THE 4th RESPONDENT.

RESPONDENTS' EXHIBITS : NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 38538 of 2010

Dated this the 12th day of October, 2015

JUDGMENT

The petitioner along with another person bid the toddy shop Nos. 1 to 54 in Cherpu Excise Range for the period 14.11.1997 to 31.03.2000. The re-auction at the fag end of the Abkari year, i.e. November 1997, was occasioned due to the cancellation of licence of the original bidder.

2. In the course of time, despite the period of auction being from November 1997 till 31.03.2000, the department issued the initial licence only from 14.11.1997 to 31.03.1998. On the allegation that the petitioner and the other licensee had committed default, the department cancelled the licence and issued Exhibit P2 notice demanding kist for the entire three years.

3. Aggrieved, the petitioner, eventually, filed Exhibit P6 revision before the fourth respondent. Pending its consideration, when the respondents tried to take coercive steps for the recovery of amount demanded in Exhibit P2, the petitioner filed the present writ petition in 2010 for obtaining an interim stay.

4. In the above factual background, the learned counsel for the petitioner submits that the writ petition may be disposed of with a direction to the fourth respondent to consider Exhibit P6 revision, at the earliest. He has further submitted that till the revision is disposed of, protection may be given to the petitioner from any coercive realization of the kist demanded through Exhibit P2.

5. The learned Government Pleader, on his part, has submitted that the fourth respondent is willing to dispose of Exhibit P6 revision as expeditiously as possible.

6. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Government Pleader, this Court, without adverting to the merits of the matter, disposes of the writ petition with a direction to the fourth respondent to consider and dispose of Exhibit P6 revision in accordance with law, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

It is made clear that until the disposal of the revision, it may not be appropriate for the authorities to take any coercive steps to enforce Exhibit P2 notice. Accordingly, the authorities

are restrained from taking recourse to any coercive steps until the disposal of the revision.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-