

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

WP(C).No. 36206 of 2015 (A)

PETITIONER(S):

**SHAJI, AGED 36 YEARS,
S/O.RAJENDRAN, PUTHUVAL PUTHEN VEEDU, NEAR CRP CAMP,
PALLIPPURAM VILLAGE, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION, THIRUVANANTHAPURAM - 695 001.**
- 2. THE DEPUTY TAHSILDAR,
REVENUE RECOVERY, TALUK OFFICE, VARKALA,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE VILLAGE OFFICER,
VARKALA VILLAGE, VARKALA,
THIRUVANANTHAPURAM - 695 001.**
- 4. PEONA, D/O.CHANDRASEKHARAN PILLAI, AGED 27 YEARS,
NAVAMI HOLIDY INN, MUNDAYIL, VARKALA P.O.,
VARKALA, THIRUVANANTHAPURAM - 695 041.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 36206 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1: TRUE COPY OF THE ORDER OF THE JFMC -1, VARKALA DATED 31/01/2013 IN
M.C NO.311/2011.**

**P2: TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE
2ND RESPONDENT DATED 17/9/2015.**

**P2(A): TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE
2ND RESPONDENT DATED 17/9/2015.**

**P3: TRUE COPY OF THE CMP NO.9563/2015 IN M.C NO.311/2011 BEFORE THE JFMC-I,
VARKALA.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms^v/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.36206 of 2015

Dated this the 1st day of December 2015

JUDGMENT

The petitioner, who is faced with recovery proceedings for recovery of amounts directed to be paid by him, by Ext.P1 order of the Judicial First Class Magistrate-I, Varkala, in proceedings under the Domestic Violence Act, submits that against Ext.P1 order, he has preferred Ext.P3 application for setting aside the ex parte order and the said application is due to come up for hearing before the Judicial First Class Magistrate Court, Varkala soon. In the writ petition, he prays for a stay of recovery proceedings till such time as the Magistrate Court has had time to consider Ext.P3 application.

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

On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that Ext.P1 order, which is passed under the Domestic Violence Act, was passed on 31.01.2013. By the said order, the petitioner was inter alia

directed to pay to the 4th respondent, Rs.6,25,000/- towards the value of 25 sovereigns of gold ornaments appropriated by him, the value of a Car and Rs.1,00,000/- given to him. The said order also directed the petitioner to pay Rs.2,500/- per month for maintenance of the 4th respondent. It is not in dispute that the petitioner has not paid any amount to the 4th respondent, as directed in Ext.P1. On the other hand he has approached the Court of Judicial First Class Magistrate-I, Varkala, with Ext.P3 application for setting aside Ext.P1 order that was passed ex parte. Taking note of the fact that the petitioner has not paid even the amounts that were directed to be paid towards maintenance of the 4th respondent, I dispose the writ petition with the following directions:-

- i) The Court of Judicial First Class Magistrate-I, Varkala shall consider and pass orders on Ext.P3 application within a period of three months from the date of receipt of a copy of this judgment, after hearing the petitioner.
- ii) Revenue recovery proceedings initiated against the petitioner by Exts.P2 and P2(a) notices shall be kept in abeyance, till such time as the Judicial First Class Magistrate-I, Varkala passes orders as directed, on condition that the

petitioner pays an amount of Rs.50,000/- to the 4th respondent, within three weeks from the date of receipt of a copy of this judgment.

(iii) The petitioner shall produce a copy of the writ petition, along with a copy of this judgment before the Judicial First Class Magistrate-I, Varkala, for further action

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/