

**M.P.Augustine Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1096346](http://sooperkanoon.com/1096346)

**Court :** Kerala

**Decided On :** Oct-31-2013

**Judge :** Honourable Mr.Justice V.Chitambaresh

**Appellant :** M.P.Augustine

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH THURSDAY, THE 31<sup>ST</sup> DAY OF OCTOBER 2013 9<sup>TH</sup> KARTHIKA, 1935 WP(C).No. 20299 of 2012 (J) ----- PETITIONER ----- M.P.AUGUSTINE NOW RESIDING AT INFRA WHITE HALL(C4) PANAMPILLYNAGAR K.C. ABRAHAM ROAD, COCHIN-36. BY ADVS.SRI.M.RAMESH CHANDER SRI.ANEESH JOSEPH RESPONDENT(S): ----- 1. STATE OF KERALA REPRESENTED BY SECRETARY TO DEPARTMENT OF EXCISE AND TAXES THIRUVANANTHAPURAM-695001.

2. COMMISSIONER OF LAND REVENUE, THIRUVANANTHAPURAM-695001.

3. DISTRICT COLLECTOR, ERNAKULAM-682030.

4. THE DEPUTY TAHSILDAR (RR), COCHIN-682001. BY GOVERNMENT PLEADER SR. M.AABDUL SHUKOOR THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-10-2013, THE COURT ON THE SAME DAY

DELIVERED THE FOLLOWING: WP(C).No. 20299 of 2012 (J) APPENDIX  
PETITIONERS EXHIBITS EXT.P1 COPY OF THE

ORDER

IN R.P6432001 IN W.A. NO.1184/93 DATED138- 2003 EXT.P2 COPY OF THE  
NOTES OF ARGUMENTS FILED BY THE PETITIONER BEFORE THE2D  
RESPONDENT DATED2812-2011 EXT.P3 COPY OF THE

ORDER

ISSUED BY2D RESPONDENT DATED31-2012 EXT.P4 COPY OF THE

JUDGMENT

IN W.P(C)34456/2003 DATED26-2006 EXT.P5 COY OF THE

ORDER

NO.G.O(Ms) NO.93/09/TD DATED26-2009 EXT.P6 COPY OF the

JUDGMENT

IN W.PC. NO.934/12 DATED152-2012 EXT.P7 COPY OF THE REVISION GIVEN  
BY THE PETITIONER BEFORE THE1T RESPONDENT DATED222-2012 EXT.P8  
COPY OF THE

ORDER

G.O(Rt)NO.606/2012/TD DATED148-2012 EXT.P9 COPY OF THE REVENUE  
RECOVERY NOTICE NO.A2-966/05 DATED286- 2012 ISSUED BY THE4H  
RESPONDENT. RESPONDENTS EXHIBITS NIL TRUE COPY P.A TO JUDGE  
SMM V.CHITAMBARESH,J.

= = = = = W.P.(C) No. 20299 of 2012 = = = = =  
Dated this the 31st day of October, 2013

**JUDGMENT**

The petitioner is admittedly one of the four arrack shop contractors found  
responsible for the liquor tragedy at Vypeen in Ernakulam. A Division Bench of this  
Court in Writ Appeal No.1184/1993 accorded sanction to the government to

recover the compensation amount paid to the victims from the arrack shop contractors. Few other victims also filed W.P(C)No.34456 of 2003 and this Court by judgment dated 2-6-2006 affirmed the liability of the arrack shop contractors.

2. The Government later issued G.O (MS)No.93/2009/TD dated 2-6-2009 in compliance with the judgment in W.P(C) No.34456 of 2003. The petitioner was very much a party to W.P (C) No.34456 of 2003 and complaints of disobedience of the directions contained in the judgment. The petitioner contends that he was not heard before the liability to pay compensation was fastened on him.

3. The remedy, if any, of the petitioner was to initiate contempt of court proceedings in relation to the judgment in W.P(C) No.34456 of 2003. G.O (MS)No.93/2009/TD was issued W.P.(C) No. 20299 of 2012 2 on 2-6-2009 and Ext.P7 representation was filed only on 22-2-2012. Evidentially the revisional jurisdiction of the government under the Kerala Revenue Recovery Act had not been invoked since time had run out. What is more surprising is the fact that W.P(C) No.934 of 2012 filed by the petitioner earlier challenging G.O (MS)No.93/2009/TD dated 2-6-2009 was withdrawn by Ext.P6 judgment.

4. No statutory provision has been brought to my notice as regards the preferment of Ext.P7 petition and Ext.P8 order passed thereon. It is too late in the day for the petitioner to contend that he is not liable to pay compensation to the victims of the liquor tragedy which shook the state. The proceedings initiated for recovery of the amounts against the undivided share of the petitioner cannot therefore be faulted with. I do not find any grounds sufficient enough to interfere under Article 226 of the Constitution of India. The writ petition is dismissed. No costs. V.CHITAMBARESH JUDGE smm W.P.(C) No. 20299 of 2012 3

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