

Raez A.K Vs. the Kerala State Industrial Development Corporation Limited

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Court : Kerala

Decided On : Nov-08-2013

Judge : Honourable Mr.Justice V.Chitambaresh

Appellant : Raez A.K

Respondent : The Kerala State Industrial Development Corporation Limited

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.CHITAMBARESH FRIDAY, THE 8TH DAY OF NOVEMBER 2013 17TH KARTHIKA, 1935 WP(C).No. 25554 of 2013 (T) ----- PETITIONERS ----- 1. RAEZ A.K S/O.LATE P PAHAMED KUTTY,JABALAL RAHMA, PATHAIKKARA PERINTHALMANNA, MALAPPURAM DIST, PIN-679322 2. SULFATH P M W/O.LATE P PAHAMED KUTTY, JABALAL RAHMA, PATHAIKKARA PERINTHALMANNA, MALAPPURAM DIST-679322 3. RAHNAARIF D/O.LATE P PAHAMED KUTTY, JABALAL RAHMA, PATHAIKKARA PERINTHALMANNA, MALAPPURAM DIST-679322 BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR SRI.P.GOPINATH MENON SRI.P.BENNY THOMAS SRI.K.JOHN MATHAI RESPONDENT(S)/RESPONDENTS: ----- 1. THE KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LIMITED TC XI/266, KESTON ROAD, KAWDIAR THIRUVANANTHAPURAM-695003 2. THE DISTRICT COLLECTOR MALAPPURAM DIST, CIVIL STATION, MALAPPURAM-676505 3. THE DEPUTY TAHSILDAR(REVENUE RECOVERY)

TALUK OFFICE, PERINTHALMANNA-679322 R1 BYADV. SRI.K.JAJU BABU, SC, KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD. R BY GOVERNMENT PLEADER SMT. SHOBAANNAMMA EAPEN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/11/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 25554 of 2013 (T) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXT.P1: -TRUE COPY OF THE PROCEEDINGS DTD30/11/2009 OF THE BIFR RECOMMENDING WINDING UP OF MFPI LTD. EXT.P2:- TRUE COPY OF THE

ORDER

DTD288/2012 IN APPEAL NO422010 EXT.P3:- TRUE COPY OF THE

ORDER

14/12/2005 REGISTRING MFPI LTD. A SICK INDUSTRIAL UNDERTAKING EXT.P4:- TRUE COPY OF THE NOTICE DTD81/2007 ISSUED BY THE 3D RESPONDENT IN FORM 10 EXT.P5:- TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3D RESPONDENT DTD81/2007 IN FORM -1 EXT.P6:- TRUE COPY OF THE NOTICE DTD101/2011 ISSUED BY THE 3D RESPONDENT IN FORM 10 EXT.P7:- TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3D RESPONDENT DTD101/2011 IN FORM 1 EXT.P8:- TRUE COPY OF THE INTERIM

ORDER

DTD112/2011 IN WPC NO42382011 EXT.P9:- TRUE COPY OF THE

ORDER

DTD117/2011 IN WPC NO42382011 EXT.P10:- TRUE COPY OF THE

JUDGMENT

DTD272/2013 IN WPC NO42382011 .EXT.P11:- TRUE COPY OF THE NOTICE DTD298/2013 ISSUED BY THE 3D RESPONDENT IN FORM 10 EXT.P12:- TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3D RESPONDENT, DTD298/2013, IN FORM 1 EXT.P13:- TRUE COPY OF THE REQUISITION MADE BY THE 1ST RESPONDENT TO THE 3D RESPONDENT ON 20/8/2013 .EXT.P14:-

TRUE COPY OF SALE DEED NO13191991, DTD234/1991 OF SRO PERINTHALMANNA PERTAINING TO THE RESIDENTIAL PROPERTY OF THE2D PETITIONER EXT.P15:- TRUE COPY OF SALE DEED NO5471995 , DTD184/1995 OF SRO KOLATHUR PERTAINING TO THE RESIDENTIAL PROPERTY OF THE3D PETITIONER WP(C).No. 25554 of 2013 (T) ----- RESPONDENT(S)' EXHIBITS -----
EXT.R1(a) COPY OF THE DEED OF GUARANTEE ON317-1995 EXECUTED BY THE MANAGING DIRECTOR. TRUE COPY P.A TO JUDGE SMM V.CHITAMBARESH,J.

= = = = = W.P.(C) No.25554 of 2013 = = = = =
Dated this the 8th day of November, 2013

JUDGMENT

The writ petition is filed apprehending coercive steps under the Kerala Revenue Recovery Act against the property covered by Exts.P14 and P15 sale deeds. Ext.P14 sale deed dated 23-4-1991 is in favour of the second petitioner and Ext.P15 sale deed dated 18-4-1995 is in favour of the third petitioner. The first and the third petitioners are the children and the second petitioner is the widow of Mr.P.P Ahamed Kutty who was indebted under the loan transaction. The loan was availed in July 1995 pursuant to Ext.R1(a) agreement whereas Exts.P14 and P15 sale deeds are anterior. The petitioners contend that the property covered by Exts.P14 and P15 sale deeds did not belong to the said Mr.P.P Ahamed Kutty and therefore did not devolve on them. The second and third petitioners assert that the property is their self acquisition and cannot be proceeded against for the dues of Mr.P.P Ahamed Kutty under the circumstances.

2. The Kerala State Industrial Development Corporation Ltd. as well as the the Government Pleader on behalf of the 2 second and third respondents were heard. The first respondent Corporation has filed a detailed counter affidavit clarifying the nature of the loan and the revenue recovery proceedings being initiated. The respondents are uniform in their submission that the property covered by Exts.P14 and P15 sale deeds are not being proceeded against for the dues of Mr.P.P Ahamed Kutty . This is recorded. The petitioners have therefore no subsisting

grievance to be redressed in the writ petition.

3. Nothing said hereinabove will disable the respondents from proceeding against the property left behind or alienated by Mr.P.P Ahamed Kutty for recovery of the dues if any. The writ petition is disposed of. V.CHITAMBARESH JUDGE smm

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