

Pathu vs the Manager

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Mr. Justice Shaji P.Chaly

Appeal No. : WP(C)/5707/2023

Appellant : PATHU

Respondent : The Manager

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE SHAJI P.CHALY
TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA,
WP(C) NO. 5707 OF 2023 PETITIONERS 1 SMT.PATHU, AGED 56
YEARS W/O. IBRAHIM PUTHUR ATHIYODI, KOORACHUNDU,
KOZHIKODE DISTRICT., PIN - 673527 2 SMT.AFSATH, AGED 33
YEARS D/O. IBRAHIM THARAKULATH HOUSE KOODATHAI BAZAR
P.O.,KOODATHAI, KOZHIKODE DISTRICT., PIN - BY ADVS. LUIZ
GODWIN D COUTH JOSE KURIAKOSE (VILANGATTIL) BIJO
FRANCIS RESPONDENTS 1 THE MANAGER THE KERALA STATE
FINANCIAL ENTERPRISES LTD. KALLAYI ROAD BRANCH,
CHALAPPURAM P.O., CALICUT, PIN - 673002 2 THE SPECIAL

DEPUTY TAHASILDAR REVENUE RECOVERY SECTION, MINI CIVIL STATION, KOYILANDY TALUK, KOZHIKODE DISTRICT, PIN - 3 THE VILLAGE OFFICER KAYANNA VILLAGE OFFICE, KOYILANDY TALUK, KOZHIKODE DISTRICT, PIN - 673527 R1 AND 2 - SRI.P.PRAJITH, SC R3 - SMT.DEEPA NARAYANAN, senior government pleader BY SHRI.SALIL NARAYANAN K.A., THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28.02.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: SHAJI P.CHALY. J.
----- W.P.(C).5707 of 2023 ----- Dated : 28th February, 2023

JUDGMENT

Petitioners are subscribers to one chitty each conducted by the Kerala State Financial Enterprises Ltd. (KSFE). Chitty is prized in favour of the petitioners and amounts were released; however, repayment was defaulted consequent to which KSFE initiated action under Sections 7 and 34 of the Kerala Revenue Recovery Act, 1968. It is challenging the legality and correctness of the coercive action, this writ petition is filed.

2. The learned counsel for the petitioner submitted that the

recovery notices are issued without a proper quantification done by the respondents. In my considered opinion, the amounts are fallen due on the basis of a chitty contract entered into by the petitioners with the KSFE. If the petitioners are of the opinion that the figures reflected in the notice are not correct, it was for the petitioners to raise objection before the Revenue authority. There is no case for the petitioners that any objection is raised against the notices issued. However, later the learned counsel for the petitioner submitted that the petitioners may be provided with 18 instalments to pay the outstanding amount.

3. The learned Standing counsel submitted that as on today,

Rs.60,40,279/- is due from the petitioners. Having heard the learned counsel for the petitioners, Sri.Jose Kuriakose, and the learned Standing Counsel Sri.P.Prajit

and having perused the pleadings and materials on record, this writ petition is disposed of granting liberty to the petitioners to pay the outstanding amount specified above in 18 equated monthly instalments starting from 10.3.2023 and on the corresponding date of the succeeding months. I make it clear that if any one of the instalments is defaulted, respondents will be at liberty to proceed in accordance with law and recover the amounts in lump. Sd/- SHAJI P.CHALY, Judge Mrcs APPENDIX OF WP(C) 5707/2023 PETITIONER EXHIBITS Exhibit-P1 TRUE COPY OF THE DEMAND NOTICE UNDER SEC. 7 BEARING NO. RRC NO. 2022/692/11 Exhibit-P2 TRUE COPY OF THE DEMAND NOTICE UNDER SEC. 34 BEARING NO. RRC NO. 2022/692/11 Exhibit-P3 TRUE COPY OF THE DEMAND NOTICE UNDER SEC. 7 BEARING NO. RRC NO. 2022/687/11 Exhibit-P4 TRUE COPY OF THE DEMAND NOTICE UNDER SEC. 34 BEARING NO. RRC NO. 2022/687/11

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