

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY ,THE 31ST DAY OF JANUARY 2019 / 11TH MAGHA, 1940

WP(C).No. 2946 of 2019

PETITIONER:

FOOD CORPORATION OF INDIA,
REPRESENTED BY ITS SENIOR REGIONAL MANAGER, REGIONAL
OFFICE, KESAVADASAPURAM, THIRUVANANTHAPURAM-695 004.

BY ADV. SRI.VIVEK VARGHESE P.J., SC,
FOOD CORPORATION OF INDIA

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY DISTRICT COLLECTOR,
ALAPPUZHA-688 001.
- 2 SMT. MARY VARGHESE,
KOMBASSERIL, KOTTARKAVU MURI, MAVELIKKARA 690 101.

SRI.SAIGI JACOB PALATTY, SR.GOV'T.PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.01.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

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W.P.(C) No.2946 of 2019

Dated this the 31st day of January, 2019

J U D G M E N T

The prayers in the above writ petition (Civil) are as follows:

- “i) issue a writ of certiorari quashing Exhibit P9.*
- ii) award the cost of this proceedings; and*
- iii) such other reliefs that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”*

2. Heard Sri.P.J.Vivek Varghese, learned Standing Counsel appearing for the petitioner and Sri.Saigi Jacob Palatty, learned Sr.Government Pleader appearing for R-1. In the nature of the orders proposed to be passed in this Writ Petition, notice to contesting respondent No.2 will stand dispensed with.

3. It appears that the petitioner herein (Food Corporation of India) is the requisitioning authority in the acquisition proceedings initiated by the 1st respondent. The matter is now pending in execution proceedings instituted before the L.A.R Court concerned, for execution of the decree in the L.A.R reference

award. According to the acquisitioning authority, more amounts are still due to be paid to the claimant by the petitioner-requisitioning authority, whereas the petitioner-requisitioning authority will vehemently assert that the said stand taken by the claimant as well as the Land Acquisition Officer is wrong and untenable and that no amounts are due from the requisitioning authority and that this Court should interdict with the impugned proceedings at Ext.P-9 in that regard. It is an admitted case of the petitioner that the matter is now pending before the Execution Court and that the petitioner being the requisitioning authority is already arrayed as a respondent in the execution proceedings. Since that be the position, it is not right and proper for this Court in exercise of its powers under Article 226 of the Constitution of India to enter into adjudication of any such disputes, which are essentially in the domain of the Execution Court concerned/LAR Court, which is also a civil court. It is also by now well established in decisions as in ***Radhey Shyam & another v. Chhabi Nath & others*** [2015(5) SCC 423] that the judicial decisions of a civil court are not amenable to prerogative writs conceived under Article 226 of the Constitution of India. If there is no efficacious

remedy and subject to fulfillment of the necessary jurisdictional parameters in this regard, it may be open to an aggrieved person to approach this Court under Article 227 of the Constitution of India in rare and exceptional cases.

4. Without getting into those aspects, it is ordered that it is for the petitioner to raise all his objections and contention before the Execution Court concerned in regard to his contentions that Ext.P-9 is untenable and if such objections are raised, it is for the Execution Court concerned to deal with the same, in accordance with law, after hearing the petitioner as well as the respondents herein.

Accordingly, with these observations and directions, the above Writ Petition (Civil) will stand disposed of.

sd/-

**ALEXANDER THOMAS
JUDGE**

vgd/04.02.19

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE JUDGMENT DT. 20/11/03 OF THE SUB COURT MAVELIKKARA IN LAR NO. 47/99.
EXHIBIT P2	TRUE COPY OF THE EXECUTION PETITION NO. 147/05 IN LAR NO. 47/99 OF SUB COURT, MAVELIKKARA.
EXHIBIT P3	TRUE COPY OF JUDGMENT DT. 03/04/09 IN LAA NO. 765/05 OF THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.
EXHIBIT P4	TRUE COPY OF LETTER NO. C5-LAR 47/99 DT. 15/11/13 ALONG WITH STATEMENT OF ACCOUNT.
EXHIBIT P5	TRUE COPY OF THE STATEMENT OF ACCOUNT DT. NIL BY THE 1ST RESPONDENT.
EXHIBIT P6	TRUE COPY OF LETTER NO. LEGAL/32(2)/2013 DT. 17/02/2014 ALONG WITH STATEMENT OF ACCOUNT FOR RS.3,94,803/-
EXHIBIT P7	TRUE COPY OF OBJECTION TO BALANCE STATEMENT DT. 24/09/14 FILED BY 1ST RESPONDENT.
EXHIBIT P8	TRUE COPY OF CALCULATION STATEMENT NO. LEGAL 32(1)2017 DT.27/03/17 BY THE PETITIONER.
EXHIBIT P9	TRUE COPY OF LETTER NO. LAR. 47/99 DT. 19/09/18 BY THE 1ST RESPONDENT.
EXHIBIT P10	TRUE COPY OF BALANCE STATEMENT AS ON 16/12/14 IN LAR 47/99 OF SUB COURT, MAVELIKKARA