

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 27<sup>TH</sup> DAY OF MARCH 2024 / 7TH CHAITHRA, 1946

WP(C) NO. 10986 OF 2024

PETITIONER:

ILAHIA TRUST  
MARKET P.O, MUVATTUPUZHA,  
ERNAKULAM, PIN - 686673  
REPRESENTED BY THE CHAIRMAN  
BY ADVS.  
P.M.SANEER  
TONY GEORGE KANNANTHANAM  
BIBIN B. THOMAS

RESPONDENTS:

- 1 THE CONTROLLING AUTHORITY  
UNDER THE PAYMENT OF GRATUITY ACT, 1972  
(DEPUTY LABOUR COMMISSIONER), OFFICE OF  
DEPUTY LABOUR COMMISSIONER, CIVIL STATION,  
ERNAKULAM, PIN - 682030
- 2 SAJINI SUSAN MATHAYI  
EDASSERIYILHOUSE, KADAKANADU P.O.,  
KOLENCHERRY, ERNAKULAM, PIN - 682311
- 3 THE DUPY TAHASILDAR(RR)  
TALUK OFFICE, MUVATTUPUZHA,  
ERNAKULAM DISTRICT, PIN - 686661
- 4 THE DISTRICT COLLECTOR  
CIVIL STATION, ERNAKULAM, PIN - 682030
- 5 THE VILLAGE OFFICER  
MULAVOOR VILLAGE, PAIPRA, MUVATTUPUZHA,  
ERNAKULAM DISTRICT, PIN - 686673  
BY ADVS.  
C.ARUN PRASANTH  
A.S.BRIJESH(K/481/2004)  
ROOPA RAMACHANDRAN(K/1205/2003)  
C.S.SHEEJA - SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 27.03.2024, ALONG WITH WP(C).11048/2024, THE COURT ON THE  
SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 27<sup>TH</sup> DAY OF MARCH 2024 / 7TH CHAITHRA, 1946

WP(C) NO. 11048 OF 2024

PETITIONER:

ILAHIA TRUST  
MARKET P.O, MUVATTUPUZHA,  
ERNAKULAM, PIN - 686673  
REPRESENTED BY THE CHAIRMAN  
BY ADVS.  
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- 1 THE CONTROLLING AUTHORITY  
UNDER THE PAYMENT OF GRATUITY ACT, 1972  
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DEPUTY LABOUR COMMISSIONER, CIVIL STATION,  
ERNAKULAM, PIN - 682030
- 2 JUBIN ELDHO PAUL  
MUPATHIYIL HOUSE, MEKKADAMBU PO,  
MUVATTUPUZHA. ERNAKULAM DISTRICT,  
PIN - 682316
- 3 THE DEPUTY TAHASILDAR(RR)  
TALUK OFFICE, MUVATTUPUZHA,  
ERNAKULAM DISTRICT, PIN - 686661
- 4 THE DISTRICT COLLECTOR  
CIVIL STATION, ERNAKULAM, PIN - 682030
- 5 THE VILLAGE OFFICER  
MULAVOOR VILLAGE, PAIPRA, MUVATTUPUZHA,  
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BY ADVS.  
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ROOPA RAMACHANDRAN(K/1205/2003)  
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W.P.(C) Nos.10986 of 2024 & 11048 of 2024

: 3 :

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 27.03.2024, ALONG WITH WP(C).10986/2024, THE COURT ON THE  
SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

Sri.P.M.Saneer - learned counsel for the petitioner, vehemently argued that the Revenue Recovery requisition, which is impugned in these writ petitions, does not contain any of the necessary details, as are required under the Revenue Recovery Act, especially Form Nos.1 and 10 thereof. He, however, conceded that the said requisition has been made on the basis of Ext.P4 Award issued by the Controlling Authority under the Payment of Gratuity Act, 1972, and that no Statutory Appeal has been filed against it until now. He nevertheless prayed that the impugned Revenue Recovery requisition be quashed for the afore reason.

2. Smt.C.S.Sheela - learned Senior Government Pleader, in response, submitted that, it appears to be true that some of the vital details, as are required in the requisition, have been omitted. She added that, therefore, the Authorities are now willing to withdraw the impugned requisitions, but with liberty to issue fresh ones; and argued that this cannot be objected to by the petitioner because they had not challenged the Award of the 1<sup>st</sup> respondent by filing an Appeal, as was permitted to them. She contended that, when the petitioner failed or refused to invoke their statutory remedy against Ext.P4 in both cases, they cannot now be allowed

to challenge it in a collateral manner before this Court, particularly, when they have chosen to do so, only when they received the Revenue Recovery requisition. She thus prayed that these writ petitions be ordered only on such terms.

3. I must say that there is force in the afore submissions of the learned Senior Government Pleader because, as long as the edifice of the requisition remains - namely Ext.P4 Award in both cases - which was followed by a statutory notice, namely Ext.P5, produced in both writ petitions, the petitioner can only challenge them on substantive grounds and no other.

4. In the case at hand, it is true that the Revenue Recovery requisitions do not contain any of the essential details as mandated under the statute, and this is conceded to by the learned Senior Government Pleader also.

5. I, therefore, put it to Sri.P.M.Saneer - learned counsel for the petitioner, whether his client is willing to pay off the amounts as per the Award, to which, his answer was that they do not have the financial resources at the moment; and he also conceded, to a pointed question from this Court, that the challenge to the Awards at this time has been done only because his client received the notices under the Revenue Recovery Act.

6. It is well settled without requirement for restatement that,

when the Award of the 1<sup>st</sup> respondent has not been challenged through the statutory mechanism, it cannot be normally done before this Court under Article 226 of the Constitution of India, particularly when no reasons have been stated by the petitioner in not having done so earlier.

7. Therefore, as rightly argued by Smt.C.S.Sheela, the petitioner has approached this Court solely because they have received Revenue Recovery notices and nothing else. However, when these notices are agreed to be withdrawn, the challenge against the order of the 1<sup>st</sup> respondent at this stage before this Court is not deserving of consideration on its merits, especially because, as I have already said above, they have either refused and failed to invoke their statutory remedy, even though they had it available to them throughout.

8. That being said, however, the impugned requisitions concededly do not contain the details as are required under the statute. Such an evasive and vague requisition cannot be allowed to culminate in a sale proceeding. I am, therefore, of the firm view that the suggestion of the learned Senior Government Pleader, that the Requisitions will be withdrawn, with liberty to the competent Authority to issue fresh ones is the most apposite.

In the afore circumstances, these Writ Petitions are allowed,

without acceding to the challenge to Ext.P4 order of the 1<sup>st</sup> respondent in both cases; however, recording that the impugned revenue recovery proceedings will be withdrawn.

Needless to say, the right of the competent Authority to issue fresh requisitions under the Revenue Recovery Act is left open.

**Sd/-  
DEVAN RAMACHANDRAN  
JUDGE**

anm

APPENDIX OF WP(C) 11048/2024

**PETITIONER EXHIBITS**

- Exhibit P1** A TRUE COPY OF THE APPLICATION IN FORM NO N SUBMITTED BY THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT DTD 29/11/2019.
- Exhibit P2** A TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE 2ND RESPONDENT DTD 29/11/2019 BEFORE THE 1ST RESPONDENT.
- Exhibit P3** A TRUE COPY OF THE OBJECTION DTD 12/2/2020 FILED BY THE MANAGER OF ILAHIA COLLEGE OF ENGINEERING AND TECHNOLOGY.
- Exhibit P4** A TRUE COPY OF THE ORDER IN GC NO 356/2019 DATED 25-2-2023 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P5** A TRUE COPY OF THE SHOW CAUSE NOTICE NO GC 356/2019 DTD 10/10/2023 SENT FROM THE OFFICE OF THE 1ST RESPONDENT.
- Exhibit P6** A TRUE COPY OF THE NOTICE UNDER SECTION 7 AND 34 OF RR ACT DTD 13-12-2023.
- Exhibit P7** A COPY OF THE LETTER NIL DTD ISSUED BY THE PETITIONER TO THE 3RD AND 4TH RESPONDENT.
- Exhibit P8** A TRUE COPY OF THE INTERIM ORDER DTD 11/1/2019 IN WPC NO 42443/2018.

**RESPONDENTS' EXHIBITS : NIL.**



APPENDIX OF WP(C) 10986/2024

**PETITIONER EXHIBITS**

- Exhibit P1** A TRUE COPY OF THE APPLICATION IN FORM NO N SUBMITTED BY THE 2ND RESPONDENT BEFORE THE 1ST RESPONDENT DTD 29/11/2029.
- Exhibit P2** A TRUE COPY OF THE AFFIDAVIT AND PETITION DTD 29/11/2019 FILED BY THE 2ND RESPONDENT BEFORE THE 1STRESPONDENT.
- Exhibit P3** A TRUE COPY OF THE OBJECTION DTD 12/2/2020 FILED BY THE MANAGER OF ILAHIACOLLEGE OF ENGINEERING AND TECHNOLOGY.
- Exhibit P4** A TRUE COPY OF THE ORDER IN GC NO 357/2019 DATED 3-3-2023 ISSUED BY THE 1STRESPONDENT.
- Exhibit P5** A TRUE COPY OF THE SHOW CAUSE NOTICE NO GC 357/2019 NIL DATED SENT FROM THE OFFICE OF THE 1STRESPONDENT.
- Exhibit P6** A TRUE COPY OF THE NOTICE UNDER SECTION 7 AND 34 OF RR ACT DATED 13-12-2023.
- Exhibit P7** A COPY OF THE OBJECTION DATED NIL. ISSUED BY THE PRINCIPAL OF THE INTITUTION TO THE RESPONDENTS 3 AND 4.
- Exhibit P8** A TRUE COPY OF THE INTERIM ORDER DATED 11/1/2019 IN WPC NO.42443/2018 OF THIS HONOURABLE COURT.

**RESPONDENTS' EXHIBITS : NIL.**