
(2012) 09 KL CK 0020

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 21395 of 2012 (Y)

P.S Suresh Kumar, B.T. Jiji and T. Babith

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 14-09-2012

Acts Referred:

Citation : (2012) 09 KL CK 0020

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : M. Ramaswamy Pillai and Sri. P.M. Joseph, for the Appellant; A.M. Antony, SC, Kerala State Financial Enterprises Ltd., P.A. Reziya, Government Pleader and Sri. Johnson T. John, SC, KSFE Ltd., for the Respondent

Judgement

Justice Antony Dominic

1. Heard the Learned Counsel for the petitioners and the learned Standing Counsel appearing for the KSFE. Petitioners admittedly are defaulters of various kuries subscribed by them at the various branches of the 2nd respondent KSFE. According to the petitioners, their liability is around Rs. 95 Lakhs and about Rs. 60 Lakhs is due to them also. KSFE has initiated recovery proceedings and the petitioners had earlier approached this Court by filing W.P.(C).16522/2012. That writ petition was disposed of by Ext.P7 judgment giving liberty to the petitioners to file a representation to the Company and directing the Company to consider and pass orders thereon. It was directed that in the meanwhile, recovery proceedings shall be kept in abeyance. Accordingly they filed a representation on which Ext.P8 order was passed. By that order, they were required to pay the amount due on 10.9.2012. However, according to the petitioners, they received the order only on 10.9.2012 and they could not raise or pay all amounts as directed in the order. Now they have been issued communications asking them to discharge the liability together with collection charges and in such circumstances, apprehending coercive action the writ petition is filed.

2. When the writ petition was taken up, Learned Counsel for the petitioners

confined his prayer for 30 days time to discharge the whole liability. He also wanted a direction to the KSFE to accept payment directly so that they can avoid the liability to pay the collection charges due under the Revenue Recovery Rules.

3. As already seen, in this writ petition petitioners are not disputing their liability or the quantum. But they only want a reasonable time to settle the liability itself. In such circumstances, I see no reason to deny such an opportunity to the petitioners.

4. Therefore, I direct that status quo will be maintained for a period of 30 days from today, in order to enable the petitioners to discharge the liability as undertaken by them.

5. Insofar as the prayer of the petitioners to direct the Company itself to accept the payment is concerned, even though revenue recovery proceedings have been initiated, the liability of a defaulter to pay collection charges arises only if dues are recovered employing the machinery under the Revenue Recovery Act. Therefore, even after the proceedings are initiated, if a defaulter clears the liability otherwise, he cannot be saddled with the liability to pay the collection charges. The fact that the recovery proceedings have been initiated by issuing the requisition is no reason for the Company to decline to accept payment from the defaulter also. In such circumstances, it is ordered that if the petitioners make payment directly, that will be accepted by the Company. Needless to say that in the event of failure, respondents will be free to continue with the recovery proceedings. It is also clarified that in case any One Time Settlement Scheme is invoked, this judgment shall not prevent the petitioners from claiming the benefit thereof.

Writ petition is disposed of as above.