

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

TUESDAY, THE 14TH DAY OF JUNE 2022 / 24TH JYAISHTA, 1944

WP(C) NO. 3074 OF 2022

PETITIONERS/OPPOSITE PARTY NOS.1 TO 3:

- 1 LYSI THOMAS,
AGED 60 YEARS,
PRORIETESS, MARKANDA ESTATE, 63RD MILE,
VANDIPERIYAR 685 533 RESIDING AT ELANJIYIL,
VALIYAKANDAM, 1ST MILE, KUMILY P.O,
PEERMADE TALUK 685 509
- 2 ARUN RAJU,
PROPRIETOR, MERKANDA ESTATE, 63RD MILE,
VANDIPERIYAR 685 533 RESIDING AT ELANJIYIL,
VALIYAKANDAM, 1ST MILE, KUMILY P.O,
PEERMADE TALUK 685 509
- 3 RAJU ELANJIYIL,
MANAGER, MERKANDA ESTATE, 63RD MILE,
VANDIPERIYAR
RESIDING AT ELANJIYIL, VALIYAKANDAM,
1ST MILE, KUMILY P.O, PEERMADE TALUK 685 509

BY ADV BIJU C.ABRAHAM

RESPONDENTS/PETITIONERS AND OPPOSITE PARTIES NOS.4 & 5:

- 1 KRISHAMMA,
W/O. SASI, WORKER, MARKANDA ESTATE, 63RD MILE,
VANDIPERIYAR 685 533 RESIDING AT AARATTUCHIRAYIL VEEDU,
63RD MILE, VANDIPERIYAR 685 533
- 2 ROHINI,
W/O. RAMAKRISHNAN, WORKER, MARKANDA ESTATE, VNDIPERIYAR
685 533 RESIDING AT KUNNAKKAL VEEDU, 63RD MILE,
VANDIPERIYAR 685 533
- 3 AMMINI,
W/O. THANKAPPAN, WORKER, MARKANDA ESTATE, VANDIPERIYAR,
685 533 RESIDING AT KANNATHANAM VEEDU, PARAMADA,
APPANKOVIL, VANDIPERIYAR 685 685 533
- 4 SEBY MATHEW,
TRANSFEREE OWNER, MERCANTA ESTATE, 62ND MILE,

WP(C) Nos.3074/2022, 12076/2021

-2-

VANDIPERIYAR RESIDING AT MUNDATTU, CHUNDAYIL
HOUSE, POOVARANI P.O, PALA, KOTTAYAM 686 574

- 5 JOJO JOSEPH,
TRANSFeree OWNER, MERCANTA ESTATE, 62ND MILE,
VANDIPERIYAR AT MALIYEKKAL HOUSE,
VELLIYAPPALLY P.O, PALA 686 574

BY ADVS.
SRI V K SUNIL, SR.GP.
A.K.PREETHA
SERGI JOSEPH THOMAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 14.06.2022, ALONG WITH WP(C).12076/2021, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

TUESDAY, THE 14TH DAY OF JUNE 2022 / 24TH JYAISHTA, 1944

WP(C) NO. 12076 OF 2021

PETITIONERS:

- 1 LYSI THOMAS,
 AGED 60 YEARS,
 PROPRIETESS, MARKANDA ESTATE, 63RD MILE,
 VANDIPERIYAR 685 533, RESIDING AT ELANJIYIL,
 VALIYAKANDAM, IST MILE, KUMILY P.O.
 PEERMADE TALUK.
- 2 ARUN RAJU PROPRIETOR,
 MARKANDA ESTATE, 63RD, MILE, VANDIPERIYAR ,
 RESIDING AT ELANJIYIL, VALIYAKANDAM, IST MILE,
 KUMILY P.O. PEERMADE TALUK.
- 3 RAJU ELANJIYIL,
 MANAGER, MERKANDA ESTATE, 63RD, MILE,
 VANDIPERIYAR , RESIDING AT ELANJIYIL,
 VALIYAKANDAM, IST MILE, KUMILY P.O.
 PEERMADE TALUK.

BY ADV BIJU C ABRAHAM

RESPONDENTS:

- 1 KRISHNAMMA,
 W/O. SASI, WORKER,
 MARKANDA ESTATE, 63RD, MILE, VANDIPERIYAR
 685 533, RESIDING AT AARATTUCHIRAYIL VEEDU,
 63RD MILE, VANDIPERIYAR 685 533.
- 2 ROHINI,
 W/O. RAMAKRISHNAN, WORKER,
 MARKANDA ESTATE,
 VANDIPERIYAR 685 533, RESIDING AT KUNNAKKAL

VEEDU, 63RD, VANDIPERIYAR 685 533.

- 3 AMMINI,
W/O. THANKAPPAN,
WORKER,
MARKANDA ESTATE, VANDIPERIYAR 685 533,
RESIDING AT KANNANTHANAM VEEDU, PARAMADA,
AYYAPPANKOVIL, VANDIPERIYAR 685 533.
- 4 SEBY MATHEW,
TRANSFEREE, OWNER, MARKANDA ESTATE, 62ND MILE,
VANDIPERIYAR RESIDING AT MUNDATTU CHUDAYIL
HOUSE, POOVARANI P.O. PALA, KOTTAYAM.
- 5 JOJO JOSEPH,
TRANSFEREE OWNER,
MARKANDA ESTATE, 62ND, MILE, VANDIPERIYAR ,
RESIDING AT MALIYEKKAL HOUSE,
VELLIYAPPALLY P.O. PALA.
- 6 DISTRICT LABOUR OFFICER,
OFFICE OF THE DISTRICT LABOUR OFFICER
THODUPUZHA, IDUKKI 685 584.

BY ADVS.
A.K.PREETHA
RESHMA R.KRISHNAN
SERGI JOSEPH THOMAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 14.06.2022, ALONG WITH WP(C).3074/2022, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

[WP(C) Nos.3074/2022, 12076/2021]

Petitioners have filed W.P (C) No.12076 of 2021 with the following prayers:

- “i) To issue a writ of certiorari quashing Ext.P4 notice as it is illegal and arbitrary.
- ii) to issue a writ of mandamus or any other appropriate writ or order directing the 6th respondent not to proceed against the petitioners till the disposal of Ext.P3 correction petition.
- iii) Grant such other reliefs as this Hon’ble Court may deem just and proper in the interest of justice, including costs.”

2. Ext.P4 in W.P.(c) No.12076 of 2021 was the notice intimating revenue recovery, issued pending Ext.P3 petition filed for correction of the typographical error in the order of the labour court. However, when the recovery proceedings were initiated, constrained to file W.P(c) No.3074 of 2022 with the following prayers:

- i) To issue a writ of certiorari quashing Ext.P2 order passed by the Labour Court,

Ernakulam to the extent directing the petitioners to pay the compensation to respondent Nos.1 to 3.

- ii) To issue a declaration that the petitioners are not at all liable to pay the compensation to respondent Nos.1 to 3.
- iii) Grant such other reliefs as this Hon'ble Court may deem just and proper in the interest of justice, including costs."

3. This Court noticing the contentions passed the following order on 1.2.2022 in W.P(C).3074/22:

"Inter alia alleges that the work men respondents 1 to 3 preferred an Industrial Dispute No.28 of 2012 before the Industrial Tribunal and vide award dated 20.9.2012, they were entitled to be reinstated with continuity of service and back wages. The claim petition No.18 of 2013 under 33 C(2) of the Industrial dispute Act was preferred by the workmen and in those proceedings petitioners were arrayed as respondent Nos.1 to 3 and contended that during the pendency of the proceedings the plantation owned by them had been transferred to respondents No.4 and 5 in the present petition and 4 and 5 in the said claim petition. In this view of the matter, in paragraph 8 of the order of the claim petition noticed that there is

no hesitation to pass an order directing the additional opposite parties 4 and 5 to take benefits stated in the claim petition. However in the penultimate paragraph, ordered that the opposite parties are directed to pay a sum of Rs.3,24,840/- each to the petitioners. An application for review of the same was filed which was dismissed on the ground that labour court has no right to review the order since it had become functus officio.

Issue notice before admission to the respondents by speed post. It is made clear that as and when the respondents 1 to 3 prefer any execution proceedings or proceedings before the labour commissioner for payment of the amount either under 33 or 33 C(2), the same shall be construed to be, in view of the order dated 27.9.2019 Ext.P2, preferred against respondent Nos. 4 and 5 herein.”

4. Learned counsel for respondent Nos.1 to 3, the claimants, have put in appearance and say that they have no objection in pursuing the recovery proceedings against the respondent Nos.4 and 5 as the plantation owned by the petitioners have been transferred to respondent Nos.4 and 5. They have already filed Form K

before the District Labour Officer for executing the award against the respondent Nos.4 and 5 and direction may be issued to the District Labour Officer to implement the same in a time bound manner.

Writ petitions are disposed of in terms of the aforesaid order dated 01.02.22. Since the workmen i.e., respondent Nos.1 to 3 have already filed a Form K for recovery of the amount ordered by the Labour Court vide award dated 27.09.2019, the said order has to be construed to be against respondent Nos.4 and 5, subsequent transferees. District Labour Officer is directed to expedite the proceedings of recovery against respondent No.5 in terms of the submission of Form K as expeditiously as possible within a period of four months from the date of receipt of certified copy of the judgment.

Sd/-

AMIT RAWAL
JUDGE

APPENDIX OF WP(C) 12076/2021

PETITIONER EXHIBITS

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| Exhibit P1 | TRUE COPY OF THE ORDER DATED 27/9/2019
IN CLAIM PETITION NO. 18 OF 2013 THUS
PASSED BY THE LABOUR COURT, ERNAKULAM. |
| Exhibit P2 | TRUE COPY OF THE NOTICE BEARING NO. IR
399/2020 DATED 13.8.2020 ISSUED BY THE
DISTRICT LABOUR OFFICER, IDUKKI. |
| Exhibit P3 | TRUE COPY OF THE CORRECTION PETITION
BEARING MP NO. 66/2020 THUS FILED BY
THE PETITIONERS BEFORE THE LABOUR
COURT, ERNAKULAM. |
| Exhibit P4 | TRUE COPY OF THE BEARING NO. IR
399/2020 DATED 20/5/2021. |

APPENDIX OF WP(C) 3074/2022

PETITIONER EXHIBITS

- | | |
|------------|--|
| Exhibit P1 | TRUE COPY OF THE AWARD DATED 20-09-2012 THUS PASSED BY THE COURT OF THE INDUSTRIAL TRIBUNAL, IDUKKI IN I.D NO. 28/2012 |
| Exhibit P2 | TRUE COPY OF THE ORDER DATED 27-09-2019 THUS PASSED BY THE LABOUR COURT, ERNAKULAM IN CLAIM PETITION NO. 18/2013 |
| Exhibit P3 | TRUE COPY OF THE CORRECTION PETITION DATED 3-09-2020 THUS FILED BY THE PETITIONERS BEFORE THE LABOUR COURT , ERNAKULAM |
| Exhibit P4 | TRUE COPY OF THE ORDER DATED 17-12-2021 PASSED BY THE LABOUR COURT, ERNAKULAM IN I.A NO. 66/2020 IN C.P NO. 18/2013 |
| Exhibit P5 | TRUE COPY OF THE OBJECTION DATED 3/1/2014 FILED BY THE PETITIONERS ALONG WITH ITS ENGLISH TRANSLATION |