

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6436 OF 2015
(Arising out of SLP(C) No.1107 of 2010)

STATE OF KERALA & ORS.

APPELLANT(S)

VERSUS

SHIBU KUMAR P.K. & ANR.

RESPONDENT(S)

WITH

CIVIL APPEAL NO.6437 OF 2015
(Arising out of SLP(C) No.2428/2010)

CIVIL APPEAL NO.6438 OF 2015
(Arising out of SLP(C) No.3471/2010)

CIVIL APPEAL NO.6439 OF 2015
(Arising out of SLP(C) No.5487/2010)

CIVIL APPEAL NO.6440 OF 2015
(Arising out of SLP(C) No.5488/2010)

CIVIL APPEAL NO.6441 OF 2015
(Arising out of SLP(C) No.5489/2010)

CIVIL APPEAL NO.6442 OF 2015
(Arising out of SLP(C) No.7242/2010)

CIVIL APPEAL NO.6443 OF 2015
(Arising out of SLP(C) No.7243/2010)

CIVIL APPEAL NO.6444 OF 2015
(Arising out of SLP(C) No.7244/2010)

CIVIL APPEAL NO.6445 OF 2015
(Arising out of SLP(C) No.7245/2010)

CIVIL APPEAL NO.6446 OF 2015
(Arising out of SLP(C) No.10480/2010)

CIVIL APPEAL NO.6447 OF 2015
(Arising out of SLP(C) No.10481/2010)

CIVIL APPEAL NO.6448 OF 2015
(Arising out of SLP(C) No.10483/2010)

CIVIL APPEAL NO.6449 OF 2015
(Arising out of SLP(C) No.10485/2010)

CIVIL APPEAL NO.6450 OF 2015
(Arising out of SLP(C) No.11586/2010)

CIVIL APPEAL NO.6451 OF 2015
(Arising out of SLP(C) No.11674/2010)

CIVIL APPEAL NO.6452 OF 2015
(Arising out of SLP(C) No.12869/2010)

CIVIL APPEAL NO.6453 OF 2015
(Arising out of SLP(C) No.13023/2010)

CIVIL APPEAL NO.6454 OF 2015
(Arising out of SLP(C) No.13286/2010)

CIVIL APPEAL NO.6455 OF 2015
(Arising out of SLP(C) No.13512/2010)

CIVIL APPEAL NO.6456 OF 2015
(Arising out of SLP(C) No.14897/2010)

CIVIL APPEAL NO.6457 OF 2015
(Arising out of SLP(C) No.27432/2010)

CIVIL APPEAL NO.6458 OF 2015
(Arising out of SLP(C) No.17155/2012)

CIVIL APPEAL NO.6459 OF 2015
(Arising out of SLP(C) No.17163/2012)

CIVIL APPEAL NO.6460 OF 2015
(Arising out of SLP(C) No.17560/2012)

O R D E R

1. Leave granted.

2. This batch of appeals is directed against the common judgment and order passed by the High Court of Kerala in Writ Appeal No.1107 of 2009 and connected matters, disposed of on 18.08.2009.

3. The first respondent was a defaulter in payment of moneys due to the bank(s)/financial institution(s). The respondent(s)/writ petitioner(s) was/were served with the demand notice(s), *inter alia*, directing him/them for payment of the amounts due, as well as, collection charges under the provisions of the Kerala Revenue Recovery Act, 1968 (for short, "the Act") and Rules framed thereunder.

4. The Court being of the view, that no serious steps had been taken by the Revenue Recovery Officer for realization of the amounts due from the defaulter(s), had directed the State Government to refund the collection charges charged and collected from him/them. Aggrieved by the said order, the matter was carried further in appeal by the State Government.

5. In these matters, none of the parties to the proceedings had laid the required pleaded foundation for questioning the vires of Rules 4 and 5 of the Rules as imperative in law. What was really questioned by the respondent(s)/defaulter(s) was/were only the show cause notice(s) issued for the recovery of the amounts due from him/them, either to the financial institution(s) or to the Bank(s). Ignoring this aspect of the matter, the Division Bench of the High Court has proceeded to consider the vires of item (viii) under Rules 4 and 5(1) of the Rules.

6. In our opinion, the first and foremost, in the absence of adequate pleadings and grounds of challenge to the vires of the Rules in the writ petition, the Division Bench ought not to have considered that issue, and given its verdict or opinion. Even otherwise, in our opinion, the High Court has not convincingly substantiated its conclusion that the aforesaid Rules are unreasonable and arbitrary and, therefore, requires to be struck down on the touch stone of Article 14 of the Constitution of India.

7. In our opinion, in these types of cases, the High Court should have taken up the matters individually and decided whether the State was justified in issuing the demand notice(s) for the purpose of collection charges as well as service charges under Rules 4 and 5 of the Rules.

8. In view of the above, we set aside the judgment and order passed by the High Court and

remand the matters to the High Court for a fresh disposal in accordance with law. We also request the High Court to take the cases individually instead of clubbing all the matters and look into the facts of each case and take a positive decision on the pleadings adduced by both the parties.

9. The appeals are disposed of in the aforesaid terms.

.....CJI.
(H.L. DATTU)

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

NEW DELHI
AUGUST 19, 2015.

ITEM NO.8

COURT NO.1

SECTION XIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 1107/2010

(Arising out of impugned final judgment and order dated 18/08/2009 in WA No. 1107/2009 passed by the High Court of Kerala at Ernakulam)

STATE OF KERALA & ORS.

Petitioner(s)

VERSUS

SHIBU KUMAR P.K.& ANR.

Respondent(s)

(with interim relief and office report)

WITH

SLP(C) No. 2428/2010
(With Interim Relief and Office Report)

SLP(C) No. 3471/2010
(With Interim Relief and Office Report)

SLP(C) No. 5487/2010
(With Office Report)

SLP(C) No. 5488/2010
(With Office Report)

SLP(C) No. 5489/2010
(With Office Report)

SLP(C) No. 7242/2010
(With Office Report)

SLP(C) No. 7243/2010
(With Office Report)

SLP(C) No. 7244/2010
(With Office Report)

SLP(C) No. 7245/2010
(With Office Report)

SLP(C) No. 10480/2010
(With Office Report)

SLP(C) No. 10481/2010
(With Office Report)

SLP(C) No. 10483/2010
(With Office Report)

SLP(C) No. 10485/2010
(With Office Report)

SLP(C) No. 11586/2010
(With Interim Relief and Office Report)

SLP(C) No. 11674/2010
(With Interim Relief and Office Report)

SLP(C) No. 12869/2010
(With Interim Relief and Office Report)

SLP(C) No. 13023/2010
(With Office Report)

SLP(C) No. 13286/2010
(With Interim Relief and Office Report)

SLP(C) No. 13512/2010
(With Interim Relief and Office Report)

SLP(C) No. 14897/2010
(With Office Report)

SLP(C) No. 27432/2010
(With Office Report)

SLP(C) No. 17155/2012
(With Office Report)

SLP(C) No. 17163/2012
(With Office Report)

SLP(C) No. 17560/2012
(With Office Report)

Date : 19/08/2015 These petitions were called
 on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. C.S. Rajan, Sr. Adv.
 Mr. Jogy Scaria, Adv.
 Mr. Reegan S., Adv.

 Mr. R. Sathish, Adv.

 Ms. Liz Mathew, Adv.

For Respondent(s) Mr. Mathai M. Paikaday, Sr. Adv.
 Mr. K. Ramesh, Adv.
 Mr. Sanjay Jain, Adv.

 Mr. Sudarsh Menon, Adv.

 Mr. Atul Shankar Vinod, Adv.
 Mr. Dileep Pillai, Adv.
 Mr. Ajay K. Jain, Adv.
 Mr. M. P. Vinod, Adv.

 Mr. P. V. Dinesh, Adv.

 Ms. Kiran Bhardwaj, Adv.

 Mr. K. V. Mohan, Adv.
 Mr. N.M. Varghese, Adv.
 Ms. Tessy Varghese, Adv.

 Mr. Romy Chacko, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

Leave granted.

The appeals are disposed of in terms of
the signed order.

Pending application(s), if any, stand
disposed of.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

(Signed order is placed on the file.)