IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ Special Leave Petition (C) No.18371/2021)

DIRECTOR OF AGRICULTURE & ORS. ...APPELLANT(S)

VERSUS

M.V. RAMACHANDRAN ….RESPONDENT(S)

O R D E R

Leave granted.

Feeling aggrieved and dissatisfied with the impugned judgment and order dated 16-09-2021 passed by the Division Bench of the High Court of Kerala at Ernakulum in Writ Appeal No.1155 of 2021 by which the Division Bench has dismissed the said appeal preferred by the appellants herein and has confirmed the judgment and order passed by the learned Single Judge allowing the writ petition and directing the appellants to settle the bills/invoices of the respondent/original writ petitioner, the Director of Agriculture & others have preferred the present appeal.

At the outset, it is required to be noted that as such for the recovery of the money alleged to have been due and payable under the bills/invoices, original writ petitioner(s) did file the Civil Suit before the Sub Judge at Thrissur being O.S. No.125 of

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2017, which, as such, was the right remedy availed. However, the said suit came to be dismissed in default. It appears that the original writ petitioner, thereafter, took steps to restore O.S. No.125 of 2017 and to withdraw the suit. Before that, he filed the writ petition before the learned Single Judge, which came to be allowed.

We fail to appreciate how the writ petition before the learned Single Judge could have been entertained for recovery of money alleged to have been due and payable under the bills/invoices. The learned Single Judge, as such, ought not to have been entertained the writ petition under Article 226 of the Constitution of India for recovery of money under the bills/invoices, more particularly, when in fact the original writ petitioner(s) availed the remedy before Civil Court and filed Civil Suit, which came to be dismissed in default.

The aforesaid aspect has not been considered even by the Division Bench of the High Court.

In view of the above and on the aforesaid ground alone, the impugned judgment and orders passed by the Division Bench of the High Court and that of the learned Single Judge entertaining the writ petition are hereby quashed and set aside. However, it will be open for the original writ petitioner(s) to pursue the remedy before the Civil Court by getting the suit restored and if such an application is filed within a period of six weeks from

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today, the concerned Trial Court to restore the suit and thereafter to decide and dispose of the suit in accordance with law and on its own merits and on the basis of the evidence led.

With this, the present Appeal stands allowed.

In view of the disposal of the present appeal, pending application(s) including the application for impleadment shall stand disposed of.

.....J.
[M.R. SHAH]

..... J.
(C.T. RAVIKUMAR)

NEW DELHI;
MARCH 17, 2023.

ITEM NO.35 COURT NO.4 SECTION XI-A

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). 18371/2021

(Arising out of impugned final judgment and order dated 16-09-2021 in WA No. 1155/2021 passed by the High Court of Kerala at Ernakulam)

DIRECTOR OF AGRICULTURE & ORS. Petitioner(s)

VERSUS

M.V. RAMACHANDRAN Respondent(s)

(IA No. 43173/2022 - INTERVENTION/IMPLEADMENT)

Date : 17-03-2023 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K Joy, Adv.
Mr. Alim Anvar, Adv.

For Respondent(s) Mr. Prashant Padmanabhan, AOR

Mr. Renjith B Marar, Adv.
Ms. Lakshmi N. Kaimal, AOR
Mr. Arun Poomulli, Adv.
Mr. Davesh Kumar Sharma, Adv.
Ms. Ashu Jain, Adv.

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

Leave granted

The appeal is allowed in terms of the signed order.

In view of the disposal of the present appeal, pending application(s) including the application for impleadment shall stand disposed of.

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR

(signed order is placed on the file)