



2025:KER:2488

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 14TH DAY OF JANUARY 2025 / 24TH POUSHA, 1946

WP(C) NO. 28817 OF 2024

PETITIONER(S):

**MUHAMMED SUHAIB P C.,
S/O. ABDUL MAJEED, CHOLAKKARA,
PUTHUR, KOZHIKODE, PIN - 673 104.**

**BY ADVS.
BONNY BENNY
P.RAGHUNATHAN
THASLEENA.K.K.**

RESPONDENT(S):

- 1 ASSISTANT COMMISSIONER OF INCOME TAX,
CENTRAL CIRCLE-2: AAYAKAR BHAVAN:
NEW ANNEXE BUILDING:
CALICUT, PIN - 673 001.**
- 2 ASSISTANT COMMISSIONER OF INCOME TAX [BPU],
2ND FLOOR:AAYAKAR BHAVAN:
OLD RAILWAY STATION RD.:
KOCHI, PIN - 682 018.**
- 3 PRINCIPAL COMMISSIONER OF INCOME TAX [CENTRAL],
CENTRAL REVENUE BUILDING:
IS PRESS ROAD:
KOCHI, PIN - 682 018.**
- 4 JOINT COMMISSIONER OF INCOME TAX [BPU],
2ND FLOOR:AAYAKAR BHAVAN:
OLD RAILWAY STATION RD.:
KOCHI, PIN - 682 018.**



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5 **BRANCH MANAGER,
CANARA BANK: KARAPARAMBA BRANCH:,
KARAPARAMBA:
CALICUT:, PIN - 673 010.**

**BY ADVS. NAVANEETH.N.NATH, CGC
M.GOPIKRISHNAN NAMBIAR
SUSIE B VARGHESE
K.JOHN MATHAI
JOSON MANAVALAN
KURRYAN THOMAS
PAULOSE C. ABRAHAM
RAJA KANNAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
14.01.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



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BECHU KURIAN THOMAS, J.**W.P.(C) No.28817 of 2024****Dated this the 14th day of January, 2025****JUDGMENT**

Petitioner challenges Ext.P4 show cause notice as well as the provisional attachment order Ext.P5 issued under Section 24(3) of the Prohibition of Benami Property Transactions Act, 1988 [for short, 'the Act'].

2. Sri.P.Raghunathan, the learned counsel for the petitioner, submitted that the show cause notice is not maintainable since the cash allegedly seized, which is the subject matter of the show cause notice, cannot be treated as a benami property as the said amount had already been assessed as income of the petitioner. It was further submitted that the provisional attachment of the petitioner's benami account is also perverse, warranting an interference by this Court.
3. Sri.Navaneeth N. Nath, the learned Standing counsel for the respondent, on the other hand, submitted that, large amount of cash was seized from two persons and on production of the said currency before the learned Magistrate, six persons claimed ownership to the said amount. It is in view of the aforesaid



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circumstances that the provisions of the Act have been invoked and show cause notices were issued, apart from ordering provisional attachment. The learned Standing counsel further submitted that, since it is only a show cause notice, it is too premature a stage for this Court to interfere. The learned Standing counsel also referred to the judgment dated 27.11.2024 in W.P.(C) No.30547/2024 wherein petitioners therein, who claimed ownership to the amount approached this Court challenging the show cause notice and the provisional attachment but this Court relegated them to pursue the remedies available under the Statute.

4. On a consideration of the rival contentions this Court notices that petitioner is challenging the show cause notice issued on 05.08.2024 directing him to explain why the property which was specifically mentioned as cash of Rs.1,56,00,000/- seized by Nilambur Police should not be treated as benami property as per the provisions of the Act. Petitioner has not yet filed an objection to the show cause notice. Similarly, on the same day of show cause notice, a provisional attachment order has also been issued. Since the proceedings initiated as per Ext.P4 and Ext.P5 are statutory proceedings, the petitioner has the remedy of preferring an objection against the show cause notice and obtain an adjudication on the said matter. He is at liberty to raise all contentions before the adjudicating authority and since such a remedy is available, it is



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not proper for this Court to exercise the extra ordinary jurisdiction under Article 226 of the Constitution of India.

5. Thus this Court finds no reason to exercise the jurisdiction under Article 226 of the Constitution of India and decline the relief sought for.
6. However, petitioner is at liberty to file an objection within a period of three weeks from today. Petitioner is given liberty to raise all contentions before the appropriate authority.

Reserving the aforesaid liberty, this writ petition is dismissed.

sd/-
BECHU KURIAN THOMAS
JUDGE

AMV/14/01/2025



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APPENDIX OF WP(C) 28817/2024

PETITIONER EXHIBITS

EXHIBIT P1	PHOTOCOPY OF CHEQUE GJ NO. 3818471 DT. 20.02.2024
EXHIBIT P2	PHOTOCOPY OF ATTACHMENT ORDER DT. 22.02.2024 U/S 281B IN THE CASE OF PETITIONER
EXHIBIT P3	PHOTOCOPY OF INTERIM ORDERS DT. 09.08.2024
EXHIBIT P4	PHOTOCOPY OF THE SAID SHOW CAUSE NOTICE U/S 23[1] OF THE ACT DT. 05.08.2024
EXHIBIT P5	PHOTOCOPY OF SAID PROCEEDINGS DT. 05.08.2024 U/S 23[3] OF THE ACT