



2026:KER:2864

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

WEDNESDAY, THE 14TH DAY OF JANUARY 2026 / 24TH POUSHA, 1947

WP(C) NO. 646 OF 2025

PETITIONERS:

- 1 **ALKARSF APPARELS PRIVATE LIMITED
THIRUVANANTHAPURAM,
44/1514, KOCHAR ROAD,
NEAR HEERA HERITAGE, JAGATHY,
THIRUVANANTHAPURAM, PIN - 695014
(REPRESENTED BY IT'S POWER OF ATTORNEY,
MR. V. SANTHOSH KUMAR)**

- 2 **S.R. SREEJITH
AGED 42 YEARS
S/O. SRI. SRIDHARAN NAIR,
SRINILAYAM, PUNNAMOODU, PALLICHAL. P.O
THIRUVANANTHAPURAM, PIN - 695020
(REPRESENTED BY HIS POWER OF ATTORNEY,
MR. V. SANTHOSH KUMAR)**

BY ADVS.

**SRI.M.RAMESH CHANDER (SR.)
SRI.K.A.SALIL NARAYANAN
SHRI. GOVIND G. NAIR**

RESPONDENTS:

- 1 **STATE OF KERALA
REPRESENTED BY SECRETARY TO REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001**

- 2 **DISTRICT COLLECTOR
COLLECTORATE,
THIRUVANANTHAPURAM, PIN - 695043**

- 3 **VILLAGE OFFICER
OFFICE OF THE VILLAGE OFFICER, MEENAMKULAM,
THIRUVANANTHAPURAM, PIN - 695586**

- 4 **K. NIRMALAN
AGED 66 YEARS**



- S/O. KRISHNAN NAIR,
T.C.16/779/1, SKNRA LINE,
HOUSE NO. 172, JAGATHY, THYCAUD VILLAGE,
THIRUVANANTHAPURAM, PIN - 695014**
- 5 ADVENTURE APPARELS CO
REPRESENTED BY ITS PARTNER, A-16, 17,
KINFRA INTERNATIONAL APPAREL PARK,
MEENAMKULAM, PIN - 695586**
- 6 ADDL.R6: ADDITIONAL CHIEF SECRETARY TO
GOVERNMENT,
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM
ADDL.R6 IS SUO MOTU IMPLEADED AS PER ORDER DATED
08.01.2025 IN WP(C) 646/2025**
- 7 ADDL.R7: SMT. DR.USHA RAMESH,
(CORRECTED) DR.USHA UMESH,
W/O R. UMESH CHANDRAN,
AGED 55 YEARS, MANAGING PARTNER ,
POOJA GARMENTS, A-16 AND 17,
KINFRA INTERNATIONAL APPAREL PARK LTD.,
ST. XAVIER'S COLLEGE P.O, MEENAMKULAM VILLAGE,
THUMBA, KAZHAKOOTOM,
THIRUVANANTHAPURAM ,PIN - 695 586,
NOW RESIDING AT 9F, TRINITY HIGH GROVE, MEC
ROAD, THIRKKAKARA, KOCHI, PIN - 682021
NAME OF RESPONDENT 7 IS CORRECTED TO DR.USHA
UMESH FROM USHA RAMESH AS PER ORDER DATED
13.08.2025 IN I.A.3/25 IN WP(C)NO. 646/2025
ADDL.R7 IS IMPLEADED AS PER ORDER DATED
13.08.2025 IN I.A.1/2025 IN WP(C) 646/2025.**
- 8 ADDL.R8: NIRMAL KRISHNA NIDHI NIKSHEPAKA
SAMRAKSHANA SAMITHI ,
REPRESENTED BY IT'S SECRETARY,
REG NO. TVM/TC/240/2021 HAVING OFFICE AT
OHMKARAM, KODAVILAKOM, PARASSALA P.O.,
THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY
DHANEESH, AGED 29 YEARS
S/O SASI M. RESIDING AT PANANTHADIKONAM
KIZHAKKINKARA PUTHEN VEEDU,
PARASUVAKKAL P.O., PARASSALA,
THIRUVANANTHAPURAM, PIN - 695508
ADDL. R8 IS IMPLEADED AS PER ORDER DATED**



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13.08.2025 IN I.A.2/2025 IN WP(C)646/2025.

BY ADVS.

**SRI.K.K.VIJAYAN
SMT.K.REEHA KHADER
SHRI.ROJO JOSEPH
SRI.ACHUTH KYLAS
SHRI.N.MANOJ KUMAR, STATE ATTORNEY
SHRI.K.R.RANJITH, GOVERNMENT PLEADER WITH
STATE ATTORNEY
SRI.R.MAHESH MENON
SHRI.SACHIN.P.K
SHRI.VARGHESE XAVIER
SRI.A.SAIN PAUL
SHRI.P.C.THOMAS
SHRI.P.R.SHIBU
SMT.NAVIA SEBASTIAN
SHRI.P.T.JUDY
SRI.G.RANJU MOHAN
SMT.M.SANTHI (K/868/2011)
SMT.THEERTHA NAIR A.P.
SHRI.SREE HARI L.K.
SMT.NIKITHA ANN VARGHESE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14.01.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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“C.R.”

BECHU KURIAN THOMAS, J.

W.P(C) No.646 of 2025

Dated this the 14th day of January, 2026

JUDGMENT

Petitioners challenge Exhibit-P9 notice and also seek a restraint on proceedings against any recovery action against them for the alleged fraud committed by the fourth respondent.

2. The first petitioner is a private limited company, while the second petitioner claims to be its Managing Director. On 15.11.2024, petitioners were served with Exhibit-P9 notice issued by the Village Officer, stating that the District Collector, by proceedings dated 11.09.2024, provisionally attached the property situated in re-survey No.311/1 of Block No.10 of Menamkulam Village, presently included in the Apparel Park of Kerala Industrial Infrastructure Development Corporation (for short ‘the KINFRA’).

3. The basis for issuing Exhibit-P9 was stated as proceedings initiated against entities by name ‘M/s. Nirmal Krishna Ltd./Nirmal Krishna Benefit Fund Ltd.’ under the Banning of Unregulated Deposit Schemes Act, 2019 (for short, ‘the BUDS Act’). Since petitioners are conducting their cloth manufacturing unit in the property attached, as referred to in Exhibit-P9, they have approached this Court seeking to quash the said notice and proceedings.



4. Shorn of all the unnecessary details pleaded in the writ petition, petitioners' claim that they are conducting their business establishment pursuant to a consent obtained from KINFRA and the alleged attachment is based on proceedings initiated against the 4th respondent, who is alleged to be a deposit taker, having collected large amounts of money from the public. Petitioners contended that they have no role in any deposit taken from any public and the attachment is without any legal basis.

5. In the counter affidavits filed by the 6th respondent, it is stated that a provisional attachment was issued by the Competent Authority under the BUDS Act on 25.11.2023 against M/s. Nirmal Krishna Nidhi Limited, Nirmal Krishna Benefit Fund Limited, Krishna Finance, Perunkadavila, Thiruvananthapuram, and their allied firms, who acted as deposit takers and collected large amounts as deposits from the public by offering exorbitant returns and later absconded without repaying the depositors. It is pleaded that a crime has been registered as FIR No.681 of 2024 of Cantonment Police Station, Thiruvananthapuram, wherein the first petitioner is arrayed as the 14th accused and the second petitioner as the 38th accused. It is also stated that the District Collector had, through the proceedings reflected in Exhibit-P9, only attempted to enforce the provisional attachment order against the accused, and no revenue recovery proceedings as alleged in the writ petition had been initiated. It is also stated that no



consequential action for confiscation, take over or sale of property have also been carried out, and the same will be initiated only upon orders from the Designated Court under Section 15 of the BUDS Act.

6. The 7th respondent in its counter affidavit inter-alia pleaded that petitioners obtained interim orders after suppressing various facts and also that there are civil suits pending between the parties. It was also pleaded that this writ petition is not maintainable since Exhibit-P9 is not a revenue recovery notice, but only a notice intimating the existence of a provisional attachment. The 8th respondent, in its counter affidavit stated that as a depositor, his right is required to be protected, and since large amounts of money have been collected, cheated and misappropriated by the 4th respondent along with the petitioners, Exhibit-P9 ought not to be quashed.

7. Sri. S. Ramesh Chander, the learned Senior Counsel instructed by Sri. Salil Narayanan K. A., the learned counsel for the petitioners, submitted that Exhibit-P9 notice was issued on the assumption that the attachment issued under the BUDS Act was in force. The learned Senior Counsel also submitted that, since no application was filed within the time stipulated in Section 14 of the BUDS Act to make the provisional attachment absolute, the attachment was not in existence at the time of issuance of Exhibit-P9 and hence the said notice ought to be quashed.

8. Sri. K. P. Ranjith, the learned Special Government Pleader,



fairly submitted that an application as contemplated under Section 14 of BUDS Act has not yet been filed. It was also submitted that even if the application was not filed within the time stipulated therein, the provisional attachment will continue. The learned Government Pleader however, brought to the notice of this Court the decision in ***Highrich Online Shoppe Private Limited vs. Competent Authority [(2024) 4 KLT 565]*** and also submitted that even if the attachment is not in existence, a fresh attachment can be effected as observed in the above decision.

9. Sri. P. C. Thomas, the learned counsel for the 7th respondent as well as Sri. Sachin P. K., the learned counsel for the 8th respondent opposed the prayers in the writ petition and submitted that the writ petition is not even maintainable as Exhibit-P9 is not a revenue recovery notice. It was also submitted that the fourth respondent had duped large amounts of money from the public and the petitioners have been arrayed as accused in the crime.

10. Sri. G. Ranju Mohan, the learned counsel appearing for the 4th respondent, and Smt. Reeha Khader, the learned counsel appearing for the 5th respondent were also heard.

11. Exhibit-P9 has been challenged by the petitioners styling it as a revenue recovery notice. However, on a reading of Exhibit-P9, it is evident that it is not a revenue recovery notice but is only a notice intimating the existence of a proceeding of the District Collector,



relating to the attachment of the property mentioned therein, under the BUDS Act. The attachment of the property is based on Exhibit-R6(a) which is a provisional attachment issued by the Competent Authority under the BUDS Act. As far as the petitioners are concerned, they were informed of the provisional attachment only through Exhibit-P9. Though the 7th respondent contended that the writ petition is not maintainable as it is not a revenue recovery notice, I am of the view that the consequence of Exhibit-P9 notice being a blot on the property mentioned therein, and since petitioners are admittedly in possession of the property referred to therein, their right to challenge the said notice, even if it is not a revenue recovery notice, cannot be curtailed. Hence, this writ petition is maintainable.

12. Exhibit-P9 as referred to earlier, intimates the existence of a provisional attachment of the property mentioned therein, issued under the BUDS Act. Exhibit-R6(a) is the order of the Competent Authority dated 25.11.2023, provisionally attaching all movable/immovable properties and all other deposits held by the Deposit Taker and any other accused identified during the course of investigation. Since petitioners have been identified as accused 14 and 38 respectively, their properties have also been attached pursuant to Exhibit-R6(a). The District Collector, who was directed to identify the properties of the accused, issued instructions, as mentioned in Exhibit-P9, to attach the properties of the petitioners. Therefore, Exhibit-P9 is



in tune with the direction of the Competent Authority in Exhibit-R6(a).

13. Admittedly Exhibit-R6(a) and consequently Exhibit-P9 have been issued in exercise of the powers of provisional attachment conferred upon the Competent Authority under Section 7(3) of the BUDS Act. Necessarily, the provisions contemplated under the said statute apply. Section 14 of the BUDS Act stipulates that within a period of thirty days, which may extend up to sixty days, from the date of provisional attachment, the Competent Authority must file an application before the Designated Court for making the attachment absolute and also for permission to sell the property so attached by public auction or by other means in the form of a private sale. Section 14 of the BUDS Act reads as below:

“ 14. Application for confirmation of attachment and sale of property.—

(1) The Competent Authority shall, within a period of thirty days, which may extend up to sixty days, for reasons to be recorded in writing, from the date of the order of provisional attachment, file an application with such particulars as may be prescribed, before the Designated Court for making the provisional attachment absolute, and for permission to sell the property so attached by public auction or, if necessary, by private sale.

(2) In case where the money or property has been attached on the permission granted by a Designated Court in another State or Union territory, the application for confirmation of such attachment shall be filed in that Court.”



14. A reading of the above extracted provision will reveal that the application for confirmation of attachment ought to state reasons as well as the particulars. A specific timeline is also stipulated in the provision within which the application has to be filed. As per the scheme of the BUDS Act, the Competent Authority is not entitled to confirm the provisional attachment issued by him. Confirmation of provisional attachment is within the jurisdiction of the Designated Court, that too, on an application filed by the Competent Authority. When a provision in a special statute prescribes a period within which an action has to be done and even includes an extended period as well, the intention of the legislature becomes explicit that, beyond the period stipulated therein, the specified action cannot be permitted to be carried out.

15. The failure to file an application for confirmation of the provisional attachment contemplated under Section 14 of the BUDS Act will have the effect of such an attachment itself failing to continue beyond the period stipulated therein. The statute conspicuously does not confer a power of condonation of delay as well. Therefore, as per the statutory scheme of BUDS Act and more specifically, as evident from Sections 14 and 15 of the BUDS Act, in case a provisional attachment is ordered, the Competent Authority must move the Designated Court for confirmation of the provisional attachment, and thereafter it is upon the Designated Court to either confirm, vary, or



cancel the provisional attachment. If the Competent Authority fails to approach the Designated Court, the provisional attachment cannot continue indefinitely.

16. I am also fortified in arriving at the above conclusion in the light of the decision in ***Highrich Online Shoppe Private Limited vs. Competent Authority*** [(2024) 4 KLT 565] as well. In the said decision, the question that arose was regarding the applicability of Section 5 of the Limitation Act to Section 14 of the BUDS Act. The application filed before the Designated Court in that case was beyond the period stipulated in the statute. The Designated Court applied Section 5 of the Limitation Act to condone the delay. Relying upon the decisions in ***Union of India v. Popular Construction Co*** [2001 (8) SCC 470] and ***Consolidated Engineering Enterprises v. Irrigation Department*** [2008 (7) SCC 169], the learned Single Judge of this Court held that there is an exclusion of the application of Section 5 of the Limitation Act to Section 14 of the BUDS Act. Apart from the above, a Division Bench of this Court had, in ***Sunil Kumar v. Union of India*** [2025 KHC OnLine 2243] observed that the provisional attachments issued in that case earlier, had lapsed, since no applications were filed within the time prescribed to make such attachments absolute. The said observation also indicates the import of the requirement of making an application for confirmation of the attachment under Section 14 of the BUDS Act.



17. In the instant case, as noted earlier, the Competent Authority did not approach the Designated Court for confirmation of the provisional attachment and hence, the said attachment cannot continue in force indefinitely, causing serious prejudice to the person whose property is attached. Since the timeline under the BUDS Act has not been complied with by the Competent Authority, the provisional attachment cannot be said to be in force as on the date of issuance of Exhibit-P9. In such circumstances, this Court holds that Exhibit-P9 was issued at a time when the provisional attachment was not in force and therefore it was issued without authority.

18. In this context, it also needs to be mentioned that in ***Highrich Online Shoppe*** (supra) it was observed that there shall not be any bar for initiating a fresh proceeding by the competent authority in the matter in accordance with law. The said decision was however challenged before the Supreme Court in SLP (Crl) No. 13495/2024 and by order dated 30.09.2024, the SLP was dismissed after observing that “fresh proceedings can be initiated by the competent authority only if it is permissible in accordance with law”. Therefore, the question as to whether the Competent Authority can issue a fresh provisional attachment and whether that will be valid in law is a matter which is still not settled and hence the said question is left open.

In the result, Exhibit-P9 notice is quashed. It is clarified that this Court has not adjudicated upon the rights or otherwise of any of the



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parties in this writ petition, and this order is confined only to the validity of Exhibit-P9 vis-a-vis the provisions of BUDS Act.

The writ petition is allowed.

Sd/-
BECHU KURIAN THOMAS
JUDGE

jka/14.01.26.

**APPENDIX OF WP(C) NO. 646 OF 2025****PETITIONERS' EXHIBITS**

- Exhibit P1 TRUE COPY OF THE AGREEMENT NO.3945/2010 DATED 27.11.2010
- Exhibit P2 TRUE COPY OF THE DECLARATION-CUM-DEED OF CONSENT - UNDERTAKING DATED 02.03.2015
- Exhibit P3 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 30.03.2015
- Exhibit P4 TRUE COPY OF THE TRIPARTITE AGREEMENT DATED 11.05.2015
- Exhibit P5 TRUE COPY OF THE BUSINESS PURCHASE AND TAKEOVER AGREEMENT EXECUTED BETWEEN KANYAKUMARI EXPORTS PRIVATE LIMITED AND THE 2ND PETITIONER ON 20.10.2022
- Exhibit P6 TRUE COPY OF THE JUDGMENT OF THE HON'BLE HIGH COURT IN WPC NO. 41651/2022 DATED 04.04.2023
- Exhibit P7 TRUE COPY OF THE JUDGMENT HON'BLE HIGH COURT IN WA NO. 858/2023 DATED 28.04.2023
- Exhibit P8 TRUE COPY OF THE ORDER OF KINFRA DATED 23.05.2023
- Exhibit P9 TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT BEARING NO. 312/2024 DATED 15.11.2024
- Exhibit P10 TRUE COPY OF THE JUDGEMENT IN . WP (C) : 27464/2025 DATED 29.10.2025
- Exhibit P11 TRUE COPY OF THE SAID ORDER IN RP 1713/2025 DATED 16.12.2025
- Exhibit P12 TRUE COPY OF THE RETIREMENT DEED DATED 03/03/2015
- Exhibit P13 TRUE COPY OF LEASE SURRENDER DEED DATED 19.11.2015
- Exhibit P14 TRUE COPY OF LETTER SENT BY PETITIONER TO ESI CORPORATION DATED 26.11.2018
- Exhibit P15 TRUE COPY OF ORDER DELIVERED BY THE HON'BLE HIGH COURT IN WA 858/2023 DATED 28.04.2023.



Exhibit P16 TRUE COPY OF ORDER PASSED BY KINFRA DATED 23.05.2023

RESPONDENT EXHIBITS

- EXHIBIT R4(1) COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN WP (CRL) NO: 450 OF 2025 DATED 11TH APRIL 2025**
- EXHIBIT R6 (a) TRUE COPY OF THE PROCEEDINGS No.SC3/97/2019/HOME DATED 25.11.2023**
- EXHIBIT R6 (b) TRUE COPY OF THE FIR No.681/2024**
- EXHIBIT - R7(a) TRUE COPY OF THE COMMERCIAL SUIT, I.E., C.S. NO. 18 OF 2021 DATED 30.01.2021, ON THE FILE OF THE COMMERCIAL COURT, THIRUVANANTHAPURAM, JOINTLY FILED BY THE 2ND WRIT PETITIONER AND THE IMPLEADING PETITIONER.**
- EXHIBIT - R7(b) TRUE COPY OF THE COMMUNICATION DATED 05.06.2025 FROM THE COMPETENT AUTHORITY UNDER THE BUDS ACT TO KINFRA.**
- EXHIBIT - R7(a) TRUE COPY OF THE LEASE DEED DATED 27/11/2010 FOR 50 CENTS .**
- EXHIBIT - R7(b) TRUE COPY LICENSE AGREEMENT 15/01/2011 17 CENTS**
- EXHIBIT - R7(c) TRUE COPY OF THE ARTICLE PUBLISHED IN THE HINDU DAILY NEWSPAPER DATED 27/06/2014, REGARDING HER GARMENT FACTORY SITUATED IN THE LAND COVERED UNDER EXTS. P-1 AND P-2.**
- EXHIBIT - R7(d) TRUE COPY OF THE BROCHURE OF HER PROPRIETRIX CONCERN, EXPLAINING THE FACTORY FACILITIES, MANUFACTURING CAPABILITIES, AND DETAILS OF THE EXPORTING COUNTRIES.**
- EXHIBIT - R7(e) TRUE COPY OF THE COMMUNICATION DATED 05.06.2025 FROM THE COMPETENT AUTHORITY UNDER THE BUDS ACT TO KINFRA.**
- EXHIBIT - R7(h) TRUE COPY OF THE COMMERCIAL SUIT, I.E., C.S. NO. 18 OF 2021 DATED 30.01.2021, ON THE FILE OF THE COMMERCIAL COURT, THIRUVANANTHAPURAM,**
- EXHIBIT - R7(g) TRUE COPY OF THE INTERIM ORDER DATED 26-08-2022 PASSED THE COMMERCIAL SUIT IN CS NO.18/2021**
- EXHIBIT-R7(h) TRUE COPY OF FIR NO. 45/23 DATED 07/01/2023 FOR THE OFFENCE PUNISHABLE U/S 174-A IPC FILED BY SHIVAJI NAGAR POLICE, GURUGRAM DISTRICT, HARYANA.**



EXHIBIT-R7(i) TRUE COPY OF THE ORDER DATED 04/01/2023 OF THE JMFC, GURUGRAM, HARYANA, WHEREBY THE 4TH RESPONDENT WAS DECLARED A PROCLAIMED OFFENDER, IN PURSUANCE OF THE ORDER DATED 28/10/2022 DIRECTING ATTACHMENT OF HIS PROPERTY UNDER SECTION 82 CRPC.

RESPONDENT ANNEXURES

- ANNEXURE R-8(A)** A TRUE COPY OF THE BYE-LAW OF THE PETITIONER ASSOCIATION DATED 08.03.2021
- ANNEXURE R-8(B)** A TRUE COPY OF THE F.I.R. NO. 681 OF 2024 DATED 26.06.2024 LODGED IN CANTONMENT POLICE STATION, THIRUVANANTHAPURAM CITY
- ANNEXURE R-8(C)** A TRUE COPY OF THE ORDER NO. SC3/ 97/ 2019/ HOME DATED 25.11.2023 ISSUED BY COMPETENT AUTHORITY UNDER BUDS ACT, 2019
- ANNEXURE R-8(D)** THE TRUE COPY OF THE ORDER DATED 23.07.2022 PASSED BY THE COMMERCIAL COURT (2ND ADDITIONAL SUB COURT) THIRUVANANTHAPURAM IN CS 18/2021
- ANNEXURE R-8(E)** THE TRUE COPY OF THE JUDGMENT OF THE COURT OF THE SUB JUDGE, NEYATTINKARA DATED 14.10.2024 IN O.S NO.40/2017 SUIT FOR DAMAGES, WHICH IS FILED BY THE 2ND PETITIONER IN THE ABOVE-NUMBERED WRIT PETITION
- ANNEXURE R-8(F)** THE TRUE COPY OF THE SALE DEED BEARING NO. 756 OF 2025 IN KUNATHUNKAL SUB REGISTRAR OFFICE DATED 20.06.2025