

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

O.P.(C).No. 222 of 2015 (O)

IP NO.6/2009 of PRINCIPAL SUB COURT, ALAPPUZHA

PETITIONER :

**BINESH B, AGED 38 YEARS
S/O.THE LATE BALAKRISHNAN,
PADINJARE CHIRAYIL HOUSE
KAINAKARY EAST P.O.,
ALAPPUZHA DISTRICT
PIN - 688 501.**

**BY ADVS.SRI.C.S.MANU
SRI.S.K.PREMRAJ**

RESPONDENTS :

- 1. OFFICIAL RECEIVER, DISTRICT COURT,
ALAPPUZHA, PIN 688 001.**
- 2. THE SUB INSPECTOR OF POLICE
NEDUMUDI POLICE STATION, NEDUMUDI P.O.
ALAPPUZHA, PIN - 688 508.**
- 3. SEVEN STAR INFORMATION TECHNOLOGY PVT.LTD
SARASWATHI MANDIRAM, SOUTH OF STONE BRIDGE,
ALAPPUZHA, PIN - 688 011
REPRESENTED BY ITS MANAGER.**
- 4. MOHAMMED RAFAEK
S.S.PALACE, PALACE WARD, ALAPPUZHA, PIN - 688 007.**

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 27-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1 : TRUE COPY OF THE REGISTRATION BEARING NO.ALP/CTV/221 DATED 16.1.2010 ISSUED BY THE HEAD POST MASTER, ALAPPUZHA HEAD POST OFFICE, DEPARTMENT OF POST, GOVERNMENT OF INDIA.
- EXT.P-2 : TRUE COPY OF THE REGISTRATION BEARING NO.ALP/CTV/281 DATED 13.10.2014 ISSUED BY THE HEAD POST MASTER, ALAPPUZHA HEAD POST OFFICE, DEPARTMENT OF POST GOVERNMENT OF INDIA.
- EXT.P-3 : TRUE COPY OF THE AGREEMENT DATED 5.2.2010 EXECUTED BY AND BETWEEN THE PETITIONER AND THE 3RD RESPONDENT
- EXT.P-4 : TRUE COPY OF THE RENT AGREEMENT DATED 20.11.2009 EXECUTED BY AND BETWEEN THE SAID KUSUMAM PRASAD AND THE PETITIONER
- EXT.P-5 : TRUE COPY OF THE AGREEMENT DATED 14.1.2015 EXECUTED BY AND BETWEEN THE SAID KUSUMAM PRASAD AND THE PETITIONER
- EXT.P-6 : TRUE COPY OF THE NOTICE DATED 8.10.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER
- EXT.P-7 : TRUE COPY OF THE REPLY NOTICE DATED 16.10.2014 ISSUED BY THE PETITIONER ADVOCATE TO THE 1ST RESPONDENT.
- EXT.P-8 : TRUE COPY OF THE NOTICE DATED 10.11.2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P-9 : TRUE COPY OF THE REPLY NOTICE DATED 29.11.2014 ISSUED BY THE PETITIONER'S ADVOCATE TO THE 1ST RESPONDENT.
- EXT.P-10 : TRUE COPY OF THE NOTICE DATED 22.1.2015 ISSUED BY THE 1ST RESPONDENT AT THE OFFICE OF THE PETITIONER.

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

P.BHAVADASAN, J.

O.P.(C)No. 222 of 2015

Dated this the 27th day of January, 2015

JUDGMENT

In the insolvency proceedings initiated against the 4th respondent, 3rd respondent is shown as a debtor. Receiver was appointed in the insolvency proceedings.

2. The complaint of the petitioner is that believing that the petitioner is a collection agent for and on behalf of the third respondent, his office was taken over by the receiver and he was asked not to function. The petitioner would say that he has entered into an agreement with the third respondent which is evident by Ext.P3 whereby he has only to pay ₹10/- per subscriber and he is not a collection agent as is now sought to be made out by the receiver. Exts.P1 and P2 are the registration certificates obtained by the petitioner. Receiver, by Ext.P10 order, has taken over the concern and directed the petitioner not to function.

3. Keeping away from the question as to whether the taking over was proper or not, one fails to understand, why the working of the concern should have

curbed. In the insolvency proceedings, income is a welcome affair. That be so, there was no justification directing that the petitioner should not function.

4. This petition is disposed of directing the receiver appointed by the Insolvency Court to permit the petitioner to function and deposit ₹10/- per subscriber with the receiver and account for the balance amount till the petitioner approaches the Insolvency Court and get appropriate orders.

Sd/-
P.BHAVADASAN
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE