

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

OP(C).No. 1885 of 2015 (O)

OS.NO. 87/2013 OF PRINCIPAL SUB COURT, THALASSERY

PETITIONER :

DHANYA SIVADAS,
W/O.SIJU,AGED 30 YEARS, 'SUBHALAYAM', VENGAD,
REP BY POWER OF ATTORNEY HOLDER T.K.SIJU,
S/O.NANU, 'SUBHALAYAM', VENGAD METTA,
P.O.VENGAD, THALASSERI TALUK, VIA.
KUTHUPARAMBA -670 643.

BY ADVS.SRI.K.V.PAVITHRAN
SRI.JAYANANDAN MADAYI PUTHIYAVEETIL
SRI.SAJU P

RESPONDENT :

STATE BANK OF INDIA,
REP. BY THE CHIEF MANAGER,
KUTHUPARAMBA BRANCH, P.O.KUTHUPARAMBA -670 643.

BY SRI.TOM K.THOMAS

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

OP(C).No. 1885 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE PLAINT IN OS.NO.87/12 OF THE PRINCIPAL SUB COURT,
THALASSERI.
- EXHIBIT P2. COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANT IN OS
NO.87/13.
- EXHIBIT P3. COPY OF THE AFFIDAVIT ATTACHED TO THE AMENDMENT PETITION.
- EXHIBIT P4. COPY OF THE COUNTER OPPOSING THE AMENDMENT APPLICATION.
- EXHIBIT P5. COPY OF THE ORDER IN IA.NO. 1905/14 IN OS.NO. 87/13.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

B. KEMAL PASHA, J.

.....
O.P.(C) No. 1885 of 2015
.....

Dated this the 10th day of August, 2015

J U D G M E N T

Heard.

2. The State Bank of India has sued the petitioner before the court below through O.S.No.87 of 2013. The case of the plaintiff is that the plaintiff has lost an amount of ₹17,89,416/- through various transactions by which amounts were withdrawn by the petitioner from ATMs at Riyadh. There was allegedly failure in the ATM system in the calculation of the correct exchange rate thereby huge amounts were lost as aforesaid. The plaintiff filed an application to amend the plaint through Ext.P3 IA whereby some amendments have been sought for in the plaint. Through the amendment certain averments have been brought out to the effect that for each and every transaction,

the Bank had to debit the concerned S.B. Account of the defendant with the concerned branch, applying the correct exchange rate. The said amendment has been allowed through Ext.P5 order, which is under challenge.

3. The suit is for the realisation of ₹20,04,146/-. It seems that minor amendments have been sought for and same have been allowed through Ext.P5. On going through the amendment allowed, this Court is of the view that the basic nature or character of the suit has not been changed. Over and above this, the defendant, who is the petitioner herein, is not put to any prejudice at all on account of the amendment. Matters being so, Ext.P5 order is not liable to be interfered with.

In the result, this Original Petition is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge