

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

OP (DRT).No. 10 of 2015 (O)

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AGAINST THE ORDER/JUDGMENT IN OA 81/2014 of DEBT RECOVERY
TRIBUNAL, ERNAKULAM**

PETITIONER(S):

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LIMI LENI, AGED 39 YEARS,
W/O.LENI KURIAKOSE, PUNTHANKANDATHIL HOUSE,
AREEKKARA, KOODAPPALAM P.O., KOTTAYAM DISTRICT,
PIN-686 576, NOW RESIDING PUTHENKANDATHIL HOUSE,
KOODAPPALAM P.O., PIN 686576**

BY ADV. SRI.GOPAKUMAR G. (ALUVA)

RESPONDENT(S):

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- 1. STATE BANK OF INDIA
CORPORATE CENTRE, STATE BANK BHAVAN,
MADAME CAMA ROAD
NARIMAN POINT
MUMBAI REPRESENTED BY THE BRANCH MANAGER
STATE BANK OF INDIA, THODUPUZHA BRANCH,
P.B.NO.6, MATHA SHOPPING COMPLEX, THODUPUZHA
IDUKKI 685584**
 - 2. LENI KURIAKOSE,
S/O.KURIAKOSE, MADATHIL HOUSE, PUTHUPARIYARAM P.O.
THODUPUZHA, IDUKKI DISTRICT 685 584**

R BY SRI.TOM K.THOMAS, SC

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR
ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP (DRT).No. 10 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1:TRUE COPY OF THE NOTICE DATED 16.12.2013 ISSUED BY THE
RECOVERY OFFICER DEBTS RECOVERY TRIBUNAL ERNAKULAM.**

**EXT.P2:TRUE COPY OF IA.N213/2014 FILED BY THE PETITIONER BEFORE THE
DEBT RECOVERY TRIBUNAL TO SET ASIDE THE EX-PARTE FINAL ORDER
PASSED IN OA.81/2014**

**EXT.P3:TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONER
IN OA. 81/2014 BEFORE THE DEBT. RECOVERY TRIBUNAL, ERNAKUALAM**

**EXT.P4:COUNTER FILED BY THE 1ST RESPONDENT IN IA.NO.213 OF 2014 DATED
16.06.2014 BEFORE THE DEBT RECOVERY TRIBUNAL, ERNAKULAM.**

**EXT.P5:TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN D.R.C.
NO.3708 OF 2010 PENDING BEFORE RECOVERY OFFICER DEBTS RECOVERY
TRIBUNAL, ERNAKULAM**

**EXT.P6:TRUE COPY OF THE JUDGMENT DATED 19.12.2014 PASSED BY THE
HONOURABLE COURT IN OP.(DRT) NO.110/2010.**

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

O.P.(DRT). NO.10 OF 2015 (O)

Dated this the 12th day of February, 2015

J U D G M E N T

The petitioner, who was the 2nd defendant in O.A.No.81/2012 was aggrieved by the ex parte order passed by the Debt Recovery Tribunal, Ernakulam, allowing the O.A. She therefore preferred an application before the Debt Recovery Tribunal [DRT] for setting aside the ex parte order. The said application came to be dismissed by the DRT. The petitioner now wants to prefer an appeal against the said order of the DRT, dismissing her application for setting aside the ex parte order. Towards this end, she has already applied for a certified copy of the order passed by the DRT. In the writ petition, it is her case that although she has preferred an application for obtaining the copy of the order of the DRT, she has not received the said copy, and in the meanwhile, the Recovery officer has initiated execution proceedings for auction sale of the petitioner's property. It is therefore that she has approached this Court seeking to interdict the proceedings before the Recovery officer.

2. I have heard Sri.Gopakumar G., the learned counsel appearing for the petitioner as also Sri.Tom K. Thomas, the learned

Standing counsel appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I note that in this case, the petitioner has already taken steps to obtain a copy of the order of the DRT dismissing Ext.P2 application for setting aside the ex parte order of the DRT. The petitioner requires only a breathing time to take steps to prefer an appeal against the said order. In the meanwhile, however, the execution steps are under way before the Debt Recovery Tribunal. When the matter came up for admission, by an interim order dated 2.2.2015, I had posted the case to today to enable the respondents to get instructions, and also granted an interim stay of further proceedings in D.R.C.No.3708/2012 before the Recovery officer. Today when the case was called, it is submitted by counsel for the petitioner that he will get a copy of the order from the DRT in a week's time. Taking note of this submission, I dispose the writ petition by permitting the petitioner to take steps to file the appeal against the order of the Debt Recovery Tribunal in Ext.P2 application, within a period of one month from the date of receipt of a copy of this judgment. To enable her to do so, the interim order granted by this

Court shall continue to be in force till the expiry of the said period of one month.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp