

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

OP (DRT).No. 32 of 2015 (O)

**OA.NO.131/2009 OF DEBT RECOVERY TRIBUNAL(KERALA AND LAKSHADWEEP),
ERNAKULAM.**

PETITIONER(S)/1ST DEFENDANT/ADDITIONAL 7TH DEFENDANT:

- 1. SHREE VIDYADHIRAJA VIDYA SAMAJAM,
CHARITABLE SOCIETY REGISTERED UNDER
THE TRAVANCORE-COCHIN (LITERARY
SCIENTIFIC AND CHARITABLE SOCIETIES)
REGISTRATION ACT HAVING ITS OFFICE AT
“ASWATHY”, HINDU MISSION ROAD,
THIRUVANANTHAPURAM-695 001,
REPRESENTED BY ITS SECRETARY, DR.R.AJAY KUMAR.**
- 2. DR.R.AJAY KUMAR, SECRETARY,
SHREE VIDYADHIRAJA VIDYA SAMAJAM HAVING
ITS OFFICE AT “ASWATHY”, HINDU MISSION ROAD,
THIRUVANANTHAPURAM-695 001.**

**BY SRI.N.NANDAKUMARA MENON (SENIOR ADVOCATE)
ADV. SRI.SANTHAN V.NAIR**

RESPONDENT(S):

- 1. STATE BANK OF INDIA,
STRESSED ASSETS MANAGEMENT BRANCH,
CHENNAI, REPRESENTED BY ITS MANAGER,
STATIONED AT ERNAKULAM - 682 018.**
- 2. P.N.KRISHNA PILLAI, S/O.NARAYANA PILLAI,
RETIRED HEADMASTER, SOUPARNIKA,
ALUMMOODU, NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT - 691 577.**
- 3. R.PRABHAKARAN NAIR, KRISHNAKRIPA,
T.C.42/928(7), ASAN NAGAR,
POST VALLAKKADAVU,
THIRUVANANTHAPURAM-695 008.**

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4. A.PADMINI, 2C, REGENCY APARTMENTS,
KURAVANKONAM, THIRUVANANTHAPURAM - 695 003
5. A.INDIRAKUTTY, K.C.XL VI/358,
DEVI NAGAR RESIDENTS ASSOCIATION,
HOUSE NO.68, KAIKULANGARA NORTH,
KOLLAM-691 001.
6. A.MALATHI, LECTURER IN ENGLISH,
EDITORIAL UNIT, SCHOOL OF HUMANITIES,
INDIRA GANDHI NATIONAL OPEN UNIVERSITY,
MAIDANDARHI, NEW DELHI-110 068.

R1 BY ADV. SRI.TOM K.THOMAS
BY SRI.P.V.SURENDRANATH,SC,SBI

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME
UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

mbr/

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APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 : TRUE COPY OF THE CHARGESHEET FILED IN CC NO.171/2008
PENDING BEFORE THE ACJM, TRIVANDRUM.
- EXHIBIT P2 : TRUE OCPY OF THE INTERIM INJUNCTION ORDER ISSUED BY THE
2ND ADD.SUB.COURT, TRIVANDRUM IN OS.NO.477/2009.
- EXHIBIT P3 : TRUE COPY OF THE JUDGMENT DATED 18.6.2008 IN
W.P.(C)NO.18303/2008 OF THIS HON'BLE COURT.
- EXHIBIT P4 : TRUE COPY OF IA NO.2033/2009 FILED IN OA NO.131/2009 ON THE
FILES OF DRT, TRIVANDRUM.
- EXHIBIT P5 : TRUE COPY OF THE FIR REGISTERED BY THE CBI AS RC-4(A)/
2009/CBI/TVPM.
- EXHIBIT P6 : TRUE COPY OF IA.NO.294/2015 FILED IN SA NO.126/2008 BEFORE THE
DRT, ERNAKULAM.
- EXHIBIT P7 : TRUE COPY OF THE EXTRACT OF THE ORDER IN OA NO.131/2009
DATED 24.2.2015 AS PUBLISHED IN THE PO DIARY (A-DIARY) OF DRT,
TRIVANDRUM.
- EXHIBIT P8 : TRUE COPY OF THE JUDGMENT DATED 9.10.2014 IN OP(DRT)
NO.91/2014 OF THIS HON'BLE COURT.

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
O.P.(DRT) No. 32 of 2015 (O)

.....
Dated this the 10th day of March, 2015

JUDGMENT

This original petition is filed challenging Ext.P7 order of the Debt Recovery Tribunal, Ernakulam whereby, the DRT, while allowing an application filed by the petitioners for impleading themselves in O.A.No.131 of 2009, also directed that they file their written statement, together with documents to substantiate their contentions, within a week from the date of the order of the Debt Recovery Tribunal [for short, 'DRT']. In the O.P.(DRT), the contention of the petitioners is that they ought to have been given more time to file their written statement, and the limiting of the time to one week would cause them prejudice, in that, it would not enable them to effectively put forward their case before the DRT.

2. I have heard Sri.N.Nandakumar Menon, the learned senior counsel appearing on behalf of the petitioners and Sri.P.V.Surendranath, the learned standing counsel appearing for the 1st respondent Bank. The learned standing counsel for the respondent Bank would vehemently oppose the prayer of the petitioners in the writ petition, inter alia on the ground that the conduct of the petitioners would itself indicate that they are not persons, who are entitled to the discretionary relief of this Court

in the present proceedings.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that this is a case where the petitioners had initially filed an I.A., for impleading themselves in the O.A, as early as on 24.09.2009. They had also filed an S.A. before the DRT, challenging the action taken by the respondent Bank for recovery of the loan amount. It would appear that, the impleadment application filed by them was dismissed for default on 20.11.2012. Thereafter, no serious attempts were taken by the petitioners to restore the impleadment application before the DRT.

4. It is stated by the learned Senior counsel for the petitioners that, they were pursuing the S.A. before the DRT, and did not pay too much attention to the proceedings in the O.A. Be that as it may, it would appear that, thereafter, on coming to know of the dismissal of the I.A for default, they preferred an application for restoration of the I.A. filed for impleadment. The DRT, by its order dated 24.02.2015, that is impugned in the writ petition, found that, although the petitioners were not a necessary party to the proceedings, in order to bring a quietus to the matter of impleading a party, who claimed to be an interested party, it was desirable to permit him to be impleaded as the additiional 7th

defendant in the O.A, without going into the merits of this claim. The order of the DRT indicates that the impleadement was for the limited purpose of permitting the petitioners to make a submission with regard to the interest of the society. It was, thereafter, that the Tribunal granted the petitioners a week's time for filing their written statements, together with documents to substantiate their contention. The Tribunal also indicated that by virtue of a direction from this Court in O.P.(DRT) No.91 of 2014, it was obliged to pass final orders in S.A.No.126 of 2008 and O.A.No.131 of 2009 within a period of four months from the date of receipt of a copy of the judgment in that O.P(DRT). It is stated by counsel for the parties that the period of four months would expire today (10.03.2015).

5. Under the circumstances and taking note of the fact that the Tribunal has not yet pronounced final orders in the matter, I dispose the O.P.(DRT) with the following directions:

(i) The DRT shall permit the petitioners to file a written statement, together with all supporting documents to substantiate their contention on merits, on or before 16.03.2015.

(ii) It is made clear that, no further extension will be granted to the petitioners in this regard.

(iii) The Tribunal will thereafter proceed to hear and dispose O.A.No.131 of 2009 on or before 30.03.2015, after hearing the parties.

(iv) The time granted to the DRT in terms of judgment dated 09.10.2014 in O.P.(DRT) No.91 of 2014 shall stand modified to the above extent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/03/

