

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

OP (DRT).No. 76 of 2015 (O)

SA. NO.197/2015 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM.

.....

PETITIONER(S):

**JOHN ZACARIA, AGED 48 YEARS,
S/O.LATE M.K.JOHN, MARIKUDY HOUSE,
PAZHANGANADU KARA, KIZHAKAMBALAM P.O.,
KIZHAKAMBALAM VILLAGE,
ERNAKULAM DISTRICT-683 562.**

BY ADV. SRI.G.SREEKUMAR (CHELUR).

RESPONDENT(S):

- 1. THE DEBT RECOVERY TRIBUNAL, ERNAKULAM,
REPRESENTED BY ITS REGISTRAR,
KSHB BUILDING, PANAMPILLY NAGAR, COCHIN-682 036.**
- 2. THE RECOVERY OFFICER,
THE DEBT'S RECOVERY TRIBUNAL, KSHB BUILDING,
PANAMPILLY NAGAR, COCHIN-682 036.**
- 3. THE AUTHORISED OFFICER,
BANK OF INDIA, COLLS ESTATE, 1ST FLOOR,
M.G. ROAD, ERNAKULAM, KOCHI-682 016.**
- 4. KORAH JOHN,
DOOR NO.7F, BHAVANI APARTMENT, BMCPO,
THRIKAKARA, ERNAKULAM-682 001.**
- 5. BINU KORAH, W/O.KORAH JOHN,
DOOR NO.7F, BHAVANI APARTMENT, BMCPO,
THRIKAKARA, ERNAKULAM-682 001.**

**R3 BY ADVS. SRI.K.K.JOHN,
SRI.ASISH K.JOHN.
SRI.P.C.CHACKO.**

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
rs.**

OP (DRT).No. 76 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXT.P-1: A TRUE COPY OF THE S.A NO.197 OF 2015 FILED BY THE
PETITIONER AND OTHERS BEFORE THE FIRST RESPONDENT
DATED 06.05.2015.**

**EXT.P-2: A TRUE COPY OF THE ORDER PASSED IN S A NO.197 OF 2015
DATED 07.05.2015 BY THE FIRST RESPONDENT.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

O.P.(DRT) No. 76 of 2015

Dated this the 10th day of July, 2015

J U D G M E N T

The petitioner is one of the applicant in the Securitisation Application before the DRT.

2. The petitioner impugns a conditional order passed by the DRT to stay coercive steps initiated by the Bank in Securitisation Application. By the conditional order, the petitioner along with others were directed to remit ₹7.5 lakhs on or before 05.06.2015 and another sum of ₹5.5 lakhs on or before 06.07.2015.

3. The grievance of the petitioner is that, the Tribunal imposed the condition without advertent to the merit of the contentions raised by the petitioner. Therefore, the condition is illegal.

4. The petitioners merit appears to be the substantial payment already effected to the Bank. The merit necessarily in this case has to be adverted by the Tribunal based on evidence relied by the petitioner. In that view of the matter, the merit can only be adverted by the DRT during final hearing of the matter. However, considering the total amount demanded by the Bank, which is around ₹89 lakhs, the DRT

only imposed condition to pay a fraction of the amount. The amount appears to be very low considering the total demand.

5. I do not find any infirmity with the order, as the order is perfectly justifiable considering the facts and circumstances. However, the learned counsel for the petitioner seeks further time to deposit the amount ordered by the DRT.

5. In that view of the matter, the direction to pay ₹7.5 lakhs is extended to 25.07.2015 and pay the sum of ₹5.5 lakhs is extended by 10.08.2015.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn