

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

OP (DRT).No. 77 of 2015 (O)

APPEAL 42/2010 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM

PETITIONER(S):

**A.SHARAFUDEEN,
VATTAVILA, PUTHENVEEDU, VIZHINJAM,
THIRUVANANTHAPURAM.**

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
(THE ASSISTANT GENERAL MANAGER)THE FEDERAL BANK LTD.
REG. OFFICE, ALWAYS, ERNAKULAM,
KERALA, PIN: 683 101.**
- 2. THE BRANCH MANAGER,
FEDERAL BANK LTD., STATUE BRANCH,
THIRUVANANTHAPURAM 695 001.**
- 3. THE RECOVERY OFFICER
OFFICE OF THE DEBT RECOVERY TRIBUNAL, 8TH FLOOR,
K.S.E.B BUILDING, PANAMPILLY NAGAR, ERNAKULAM - 36.**
- 4. PAPPACHAN ALEXANDER,
EDAVILAMURI, PUTHENVEEDU, ALAMCODE P.O.
ATTINGAL, THIRUVANANTHAPURAM - 695 102.**

R1 & 2 BY ADVS. SRI.A.ANTONY

SMT.LEELAMMA ANTONY

R3 BY ADVS.SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

SRI.B.RAMACHANDRAN, CGC

R4 BY ADV. SRI.V.PHILIP MATHEW

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION
ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

OP (DRT).No. 77 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE NOTICE DATED 18/10/2010 ISSUED BY THE FIRST RESPONDENT UNDER SECTION 13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND SECURITY INTEREST ACT 2002.
- P2: TRUE COPY OF THE REPLY DATED 31/3/2010.
- P3: TRUE COPY OF THE INTERIM ORDER DATED 18/1/2011 IN APPEAL NO.42/2010 BEFORE THE HON'BLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM
- P4: TRUE COPY OF THE AWARD DATED 3/6/2014 IN A.R NO.39/2012.
- P5: TRUE COPY OF THE PROOF AFFIDAVIT DATED 4/11/2013 IN APPEAL NO.42/2010 BEFORE THE HON'BLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

O.P.(DRT) No.77 of 2015

Dated this the 29th day of June, 2015

J U D G M E N T

The petitioner is a borrower from the respondent Bank. The petitioner's one item of property was sold in auction by the DRT. The 4th respondent is the purchaser. The petitioner filed Appeal No.42/2010 before the Debt Recovery Tribunal, Ernakulam and DRC No.2678 in O.A.No.110/2006.

2. The petitioner submits that, his textile shop was guttered in fire and insurance company was ordered to pay compensation of ₹ 77 lakhs. It is also submitted that, he is prepared to settle the entire loan account after availing the benefit of the insurance company.

3. The learned Standing Counsel for the Bank submits that, the award against the insurance company has been challenged before the District Court, Ernakulam and there is already a stay. Hence, there is no possibility of any settlement of liability, in view of the stay granted.

Considering the facts and circumstances, I am of the view that, this Court cannot entertain a matter which is pending before the DRT. If the petitioner wants to work out any remedy that has to be worked out in Appeal 42/2010. With that liberty, this writ petition is disposed of. However, taking note of the fact that, the appeal is

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of the year 2010, the DRT is directed to dispose of Appeal No.42/2010 within a period of two months.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV