

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

OP (DRT).No. 91 of 2015 (O)

IN OA 131/2009 of DEBT RECOVERY TRIBUNAL (KERALA & L;AKSHADWEEP), ERNAKULAM

PETITIONER(S)/IST DEFENDANT/7TH DEFENDANT:

1. SHREE VIDYADHIRAJA VIDYA SAMAJAM,
REGISTERED CHARITABLE SOCIETY HAVING OFFICE AT ASWATHY,
HINDU MISSION ROAD, BEHIND SECRETARIAT,
TRIVANDRUM-695 001, REPRESENTED BY ITS SECRETARY,
THE 2ND PETITIONERE HEREIN.
2. DR.R.AJAYKUMAR,
SECRETARY, SHREE VIDYADHIRAJA VIDYA SAMAJAM,
HAVING ITS REGISTERED OFFICE AT ASWATHY,
HINDU MISSION ROAD, BEHIND SECRETARIAT,
TRIVANDRUM-695 001.

BY ADV. SRI.SANTHAN V.NAIR.

RESPONDENT(S)/APPLICANT/DEFENDANTS 2 TO 6:

1. STATE BANK OF INDIA,
STRESSED ASSETS MANAGEMENT BRANCH, CHENNAI,
REPRESENTED BY ITS MANAGER,
STATIONED AT ERNAKULAM-682 011.
2. P.N.KRISHNAPILLAI,
S/O NARAYANAN PILLAI, RETIRED HEADMASTER, SOUPARNIKA,
ALUMMOODU, NEYYATTINKARA, TRIVANDRUM.
3. R.PRABHAKARAN NAIR,
KRISHNAKRIPA, T.C.42/928(7), ASAN NAGAR,
POST VALLAKKADAVU, TRIVANDRUM-695 008.
4. A.PADMINI,
2C, REGENCY APARTMENTS, KURAVANKONAM, TRIVANDRUM.
5. A. INDIRAKUTTY,
K.C.XL VI/358, DEVI NAGAR, RESIDENTS ASSOCIATION,
HOUSE NO.68, KAIKULANGARA NORTH, KOLLAM.
6. A.MALATHI,
LECTURER IN ENGLISH, EDITORIAL UNIT,
SCHOOL OF HUMANITIES
INDIRA GANDHI NATIONAL OPEN UNIVERSITY, MAIDANDARHI,
NEW DELHI-110 068.

BY SRI.TOM K. THOMAS.

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION ON
22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE FINAL REPORT FILED BY THE KERALA POLICE BEFORE
THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT,
THIRUVANANTHAPURAM NUMBERED AS CC 171/2008.

EXHIBIT P2: TRUE COPY OF THE FIR IN RC4(A)/2009-TVPM REGISTERED BY THE CBI,
THIRUVANANTHAPURAM OFFICE.

EXHIBIT P3: TRUE COPY OF THE FINAL REPORT FILED BY THE CBI,
THIRUVANANTHAPURAM OFFICE BEFORE THE SPECIAL COURT, CBI,
THIRUVANANTHAPURAM DATED 5.11.2012 NUMBERED AS CC 5/2012.

RESPONDENT(S) ' EXHIBITS:

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

O.P.(DRT).No.91 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

Shree Vidyadhiraja Vidya Samajam is a society registered under the Tranvancore Cochin Literate Scientific and Charitable Societies Act, 1955. It availed a loan from the respondent Bank. The Bank approached the Debts Recovery Tribunal, Ernakulam in O.A.No.131/2009 to recover the loan amount advanced to the Society.

2. The first petitioner is the Society itself and the second petitioner claims to be its Secretary. They would contend that, the Society has not availed any loan. The loan appears to have been created in the name of the Society by manipulation and forgery committed to the documents.

3. The Bank would submit that, they are not proceeding against the second petitioner herein. They have lend the loan to the Society based on execution of valid documents. It is further submitted that, the Society was duly represented by competent officials at the time of lending the loan.

4. The dispute now pertains to the loan advanced to the Society. The question whether the Society was duly represented for availing the loan is the subject matter of consideration by the Debts Recovery Tribunal. Necessarily, that would be based on evidence.

The petitioners have approached this Court by filing this original petition for the reason that, they have filed six Interlocutory Applications viz., I.A.Nos.782, 783, 784, 785, 786 & 1314 of 2015 for substantiating their contentions in the O.A. It is the case of the petitioners that, the DRT did not consider the above applications and it is contemplating to pass orders along with final orders. It is further submitted that, if those applications are not considered, the petitioners would be shut out their evidences for substantiating their contentions.

5. On the other hand, the learned Standing Counsel for the Bank submits that, they have approached this Court in O.P.(DRT) No.9/2014 and this Court directed the DRT to dispose of the O.A. by 30.06.2015 and thereafter it was extended up to 30.09.2015. It is also submitted that, the attempt of the petitioners is only to protract the conclusion of the proceedings before the DRT. It is further submitted that, the Bank is not proceeded against the second petitioner in his personal capacity, on the other hand they are only proceeding against the first petitioner and its property in accordance with the loan agreement.

6. This Court called for a report from the DRT. The DRT has placed report dated 21.07.2015 before this Court. The learned Presiding Officer pointed out various factors for postponing the decision on the above applications and reported that, he would pass

orders along with O.A.No.131/2014.

7. The steps taken by petitioners is essentially a matter to adduce evidence in the process relating to the OA. This Court is of the view that, the Tribunal can very well examine the scope of IAs in the light of the contentions of the respondent Bank. However, postponing the decision thereon along with original application would negative the opportunity of the petitioner to challenge the same in appropriate manner. This Court is not expressing anything on the merit of the application filed by the petitioners. If ultimately the Tribunal is of the view that it is only unmeritorious, they have liberty to dismiss the same in accordance with law. However in the process, the petitioners should be given an opportunity. That opportunity should be considered by the Tribunal.

8. In that view of the matter, the Tribunal is directed to pass appropriate orders on the interlocutory applications submitted by the petitioners within three weeks from the date of receipt of a copy of this judgment. It is made clear that the direction as above cannot be construed to delay the further proceedings in the matter and the DRT is bound by the directions of this Court in O.P.(DRT)No.9/2014.

This O.P.(DRT) is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV