

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

OP (DRT).No. 120 of 2015 (O)

CRL.M.P.NO.2196/2015 OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

PETITIONER(S):

- 1. P.P. MANUAL, AGED 43, S/O.MR.POULOSE,
PUTHENPURACKAL HOUSE,
SOUTH VELLARAPPILLY P.O, KALADY,
ERNAKULAM-683580.**
- 2. GIJI MANUAL, AGED 37, W/O.MR.P.P.MANUEL,
PUTHENPURACKAL HOUSE,
SOUTH VELLARAPPILLY P.O, KALADY,
ERNAKULAM-683580.**

**BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN**

RESPONDENT(S):

- 1. FEDERAL BANK LIMITED, REGISTERED OFFICE,
ALUVA P.O, ERNAKULAM DISTRICT, PINCODE-683 101,
REPRESENTED BY ITS MANAGING DIRECTOR.**
- 2. BRANCH MANAGER, FEDERAL BANK LTD.,
KANJOOR BRNACH, KALADY - ALUVA ROAD,
KANJOOR P.O, ERNAKULAM, PINCODE-683 575.**
- 3. BRANCH MANAGER, FEDERAL BANK LIMITED,
THOTTAKKATTUKARA BRANCH,
PARACKAL TOWERS, UC COLLEGE P.O, ALUVA,
ERNAKULAM, PINCODE-683 102.**
- 4. AUTHORISED OFFICER, FEDERAL BANK LIMITED,
THOTTAKKATTUKARA BRANCH,
PARACKAL TOWERS, UC COLLEGE PO, ALUVA,
ERNAKULAM, PINCODE-683 102.**

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5. NATIONAL BANK FOR AGRICULTURAL & RURAL DEVELOPMENT (NABARD),
DEPARTMENT OF REFINANCE, 3RD FLOOR,
A WING C-24, 'G' BLOCK BANDRA KURLA COMPLEX,
BANDRA EAST, MUMBAI, PIN CODE-400 051,
REPRESENTED BY ITS CHIEF GENERAL MANAGER.
6. RESERVE BANK OF INDIA,
DEPARTMENT OF BANKING SUPERVISION, 21ST FLOOR,
CENTRAL OFFICE BUILDING, SHAHID BHAGAT SINGH MARG,
FORT, MUMBAI, MAHARASHTRA, PINCODE - 400 001
REPRESENTED BY ITS EXECUTIVE DIRECTOR.
7. CENTRAL REGISTRAR,
CENTRAL REGISTRY FOR SECURITISATION &
SECURITY INTEREST OF INDIA, 5TH FLOOR,
MTNL TELEPHONE EXCHANGE BUILDING,
8-BHIKAJI CAMA PLACE, NEW DELHI, PIN CODE-110 066.
8. WARRIER FINANCIAL SERVICE PRIVATE LIMITED,
NAPPADY BUILDING (1ST FLOOR),
OPPOSITE KWA TANK & PUMP HOUSE,
KADAVANTHRA- KALOOR ROAD, KATHRIKKADAVU PO,
ERNAKULAM, PIN CODE-682017,
REPRESENTED BY ITS MANAGING DIRECTOR.

R4 BY SRI.A.ANTONY, SC
ADV. SMT.LEELAMMA ANTONY

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR
ADMISSION ON 09-12-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

mbr/

OP (DRT).No. 120 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : COPY OF THE DEMAND NOTICE DT 10TH OCTOBER 2014 ISSUED BY THE 4TH RESPONDENT.
- P2 : COPY OF THE NOTICE UNDER SECTION 13(2) OF THE ACT .
- P3 : COPY OF THE ADVERTISEMENT IN DEEPIKA DAILY TO TAKE POSSESSION OF PETITIONERS AGRICULTURAL PROPERTIES.
- P4 : COPY OF ORDER PASSED IN CRIMINAL MISCELLANEOUS PETITION NO.2196 OF 2015 ON THE FILES OF THE CHIEF JUDICIAL MAGISTRATE ERNAKULAM.
- P5 : COPY OF JUDGMENT IN WRIT PETITION (CIVIL) NO.16161 OF 2015.
- P6 : COPY OF THE SECURITISATION APPLICATION.
- P7 : COPY OF THE INTERLOCUTORY APPLICATION FOR STAY IN EXT P6.
- P8 : COPY OF THE INTERLOCUTORY APPLICATION NO.2050 OF 2015 IN EXT P6 SECURITISATION APPLICATION.
- P9 : COPY OF JUDGMENT IN ORIGINAL PETITION (DRT) NO.113 OF 2015.
- P10 : COPY OF THE ORDER IN IA.2050/2015 PASSED BY THE DRT IN EXT P8 APPLICATION.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

O.P.(DRT). No. 120 of 2015

Dated this the 9th day of December, 2015

JUDGMENT

The petitioners, who are stated to be engaged in agricultural activities, are aggrieved by Ext.P10 order of the Debt Recovery Tribunal, whereby the DRT has permitted the petitioners to re-present an SA, that was presented by them, on condition that the re-presented SA conforms to the same pleadings, as was there in the SA that was originally presented before the DRT on 06.03.2015. It is the contention of the petitioners in the OP(DRT) that, inasmuch as the DRT had denied them permission to amend the pleadings, Ext.P10 order is legally flawed and hence, ought to be set aside by this Court.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing for the respondent bank.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find from Ext.P10 order, which is impugned in the present OP(DRT), that on the Tribunal pointing out to the petitioners that the represented SA could not contain pleadings which were not there in the SA as

originally presented on 06.03.2015, the petitioners had accepted the said suggestions, and it was under these circumstances that the DRT permitted the petitioners to re-submit the SA within three days from the date of return of the SA as initially submitted. I find that the impugned order of the Tribunal, to the extent it contemplates that, new pleadings if inserted in an SA after its initial presentation, but before resubmission with permission of the Tribunal, could sometimes result in the incorporation of issues, which are barred by limitation, going by the date of initial presentation of the SA, cannot be said to be illegal, since the principles of limitation as prescribed in the Statute have necessarily be adhered by Tribunal constituted under the Statute. Thus, I see no reason to interfere with Ext.P10 order of the DRT save to the extent of permitting the petitioner to resubmit the SA within a week from today, if not already done, with the original pleadings as on 06.03.2015, the date of its initial presentation before the Tribunal. The interim order passed in the writ petition on 12.10.2015 and extended from time to time, shall continue to be in force for a period of one month from today.

The OP(DRT) is closed as above.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE