

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WA.No. 1697 of 2015 ()

(AGAINST THE JUDGMENT IN OP (DRT).NO. 77/2015 DATED 29/06/2015)

APPELLANT/PETITIONER IN THE ORIGINAL PETITION:

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

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT(S)/RESPONDENTS IN THE ORIGINAL PETITION:

- 1. THE AUTHORISED OFFICER,
(THE ASSISTANT GENERAL MANAGER),
THE FEDERAL BANK LTD., REG. OFFICE,ALWAYE,
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.PIN-695 102.**

**R1 & R2 BY SRI.A.ANTONY
R3 BY SRI.B.RAMACHANDRAN
R4 BY ADV. SRI.V.PHILIP MATHEW**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

W.A.No.1697 of 2015

Dated this the 6th day of August 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellant.

2. This writ appeal has been filed against the judgment dated 29/06/2015 in O.P. (DRT) No.77/2015. The writ petition was filed by the petitioner under Article 227 of the Constitution of India praying for the following reliefs:

“i) Issue appropriate order or direction directing respondents 1 and 2 to recover the amount mentioned in Ext.4 from respondents 1 and 2 as mentioned therein.

li) Issue appropriate order or direction directing respondents 1 and 2 to amicably settle the loan account borne out in terms of Ext.P1 by granting all benefits and concessions as enjoined under law including those under the One Time Settlement Scheme.

lii) Issue appropriate order or direction directing respondents 1 and 2 not to proceed ahead with the proceedings DRC No.2678 in O.A.No.110 of

2006 before the 3rd respondent in any manner.

iv) Issue appropriate order or direction directing the respondents to waive the interest from 23/09/2003 and to grant instalment for remitting the balance outstanding.

v) Stay all further proceedings in the appeal before the Debts Recovery Tribunal, Ernakulam, Appeal No.42 of 2010 as seen in Ext.P5 and in DRC No.2678 in O.A.No.110 of 2006 before the 3rd respondent, until the disposal of the Original Petition (DRT);

vi) Award costs and

vii) Any other reliefs this Hon'ble Court deems fit."

3. Objection has been raised by the learned counsel for the respondents that this writ appeal is not maintainable since the writ petition was filed under Article 227 of the Constitution of India. The learned counsel for the appellant sought to counter the objection saying that the appeal has already been directed to be numbered.

4. The mere fact that the appeal is directed to be numbered, does not mean that the objection regarding maintainability has been considered and overruled. In the copy of

the writ petition, which has been filed by the petitioner along with the memorandum of appeal, it is clearly mentioned that the writ petition is filed under Article 227 of the Constitution of India. The writ petition having filed under Article 227 of the Constitution of India, we see no reason to entertain the writ appeal and hence the same is dismissed.

The learned counsel for the appellant submits that this Court may observe that the matter be placed before the Banking Adalath. Having held that the appeal is not maintainable, we are not inclined to make any observation. The prayer of the learned counsel for the appellant is rejected.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

