

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WA.No. 2032 of 2015 IN WP(C).14989/2015

AGAINST THE ORDER IN MJC NO.278/15 IN WP(C) 14989/2015 dtd.6.8.2015
AND JUDGMENT IN WP(C) 14989/2015 of HIGH COURT OF KERALA
DATED 2.7.2015

APPELLANT(S)/PETITIONER:

ABHILASH PRESANNAN, AGED 31 YEARS
S/O.PRESANNAN, S N HOUSE, PUTHENCHANTHA
VARKALA PO & TALUK, THIRUVANANTHAPURAM DISTRICT

BY ADV. SRI.K.BALACHANDRAN (VARKALA)

RESPONDENT(S)/RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT
GOVT. SECRETARIAT, THIRUVNANTHAPURAM
2. INDIAN OVERSEAS BANK
REPRESENTED BY ITS BRANCH MANAGER, VETTOOR BRANCH
VETTOOR PO, THIRUVANANTHAPURAM DISTRICT

R2 BY ADV. SRI.SUNIL SHANKAR, SC, INDIAN OVERSEAS BANK
BY Spl.GOVERNMENT PLEADER SMT.GIRIJA GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 13-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA.No. 2032 of 2015 IN WP(C).14989/2015

APPENDIX

APPELLANT'S EXHIBITS :

EXT.A-1 : JUDGMENT IN WPC 14989/15 DATED 2.7.2015

EXT.A-2 : ORDER IN MJC NO.278/15 IN WPC NO.14989/15.

RESPONDENTS' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

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

W.A.No.2032 of 2015

Dated this the 13th day of October, 2015.

J U D G M E N T

ASHOK BHUSHAN, C.J.

Heard the learned counsel for the appellant and the learned Government Pleader in the matter.

2. This appeal has been filed against the order dated 6.8.2015 in MJC No.278/15 in W.P.(C)No.14989 of 2015 and the judgment dated 2.7.2015 in the above writ petition, by which judgment, the writ petition filed by the appellant was dismissed. The petitioner filed the writ petition praying for quashing Exts.P1 and P3 which were the statements issued by the Bank and letter issued by the Branch Manager informing that the petitioner owe a sum of Rs.6,13,715/- towards Education loan. The petitioner had already filed O.S.No.450/14 before the Munsiff's court, Varkkala, against the Bank for mandatory and prohibitory injunction. The

petitioner, without disclosing about the suit, has filed the writ petition and the Bank in its written statement has mentioned about the suit. The learned counsel for the appellant submits that the reliefs sought in the suit are not the one which were claimed in the writ petition. He submits that a copy of the written statement was never served on the plaintiff/writ petitioner.

3. We have considered the above submissions and perused the records. The learned Single Judge has refused in exercising his discretion under Article 226 of the Constitution of India on the ground that the petitioner although filed a suit, the same has not been disclosed in the writ petition. The learned counsel submits that this suppression was not willful. Be that as it may, the petitioner having already been filed a suit with regard to the very same Education loan, no error has been committed by the learned Single Judge in refusing to exercise his jurisdiction under

Article 226 of the Constitution of India. We find no merit in this appeal and accordingly the same is dismissed.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A.to Judge