

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 4382 of 2015 (W)

PETITIONER(S):

**MR.BENNY ABRAHAM,
671A, OKAMATTATHIL, KOOHATTUKULAM,
MOOVATTUPUZZHA, ERNAKULAM - 686 662.**

**BY ADVS.SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

RESPONDENT(S):

- 1. THE REGISTRAR, THE SECURITIES APPELLATE TRIBUNAL,
14TH FLOOR, EARNEST HOUSE, NARIMAN POINT,
MUMBAI - 400 021.**
- 2. THE ADJUDICATING OFFICER,
THE SECURITIES AND EXCHANGE BOARD OF INDIA,
SEBI BHAVAN, PLOT NO.C-4A, G BLOCK,
BANDRA KURLA COMPLEX, BANDRA EAST, MUMBAI - 400 051.**
- 3. THE FEDERAL BANK LTD.,
FEDERAL TOWERS, P.O.BOX NO.103,
ALUVA - 683 101, REPRESENTED BY ITS CHIEF MANAGER.**
- 4. THE SOUTH INDIA BANK LTD.,
TB ROAD, MISSION QUARTERS,
THRISSUR - 680 001, REPRESENTED BY ITS CHIEF MANAGER.**
- 5. COCHIN STOCK BROKERS LTD.,
36/1565-A 17, 4TH FLOOR, MES BUILDING,
JUDGES AVENUE, KALOOR, KOCHI - 682 017,
REPRESENTED BY ITS EXECUTIVE DIRECTOR.**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY ADV. SRI.K.M.JAMALUDHEEN, SC
R4 BY SRI.GEORGE VARGHESE,SC
R5 BY ADV. SRI.KOSHY GEORGE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 4382 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1 - TRUE COPY OF THE ORDER DATED 11-08-2014 PASSED BY THE
1ST RESPONDENT IN APPEAL NO.209/2014.**

**EXT.P2 - TRUE COPY OF THE LETTER DATED 25-09-2014 FILED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT.**

**EXT.P3 - TRUE COPY OF THE LETTER DATED 5-2-2015 ISSUED TO THE PETITIONER
BY THE 3RD RESPONDENT.**

**EXT.P4 - TRUE COPY OF THE DEMAND DRAFTS DATED 5-2-2015 AND 6-2-2015 (5 NOS)
ALONG WITH COVERING LETTER DATED 6-2-2015 ADDRESSED TO THE
CHIEF GENERAL MANAGER, CORPORATE FINANCE DEPARTMENT OF THE
2ND RESPONDENT.**

**EXT.P5 - TRUE COPY OF THE POSTAL ACKNOWLEDGMENT RECEIPT DATED 6-2-2015
ADDRESSED TO THE CHIEF GENERAL MANAGER, CORPORATE FINANCE
DEPARTMENT OF THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.D.TO JUDGE

Msv/

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.4382 of 2015

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Dated this the 18th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- " i) call for the records leading to SEBI attachment Proceedings No.1815/2015 and Recovery Certificate No.550/2015 issued by the 2nd respondent and quash the same by the issuance of a writ of certiorari or such other writ, order or direction;
- ii) Issue a writ of mandamus or such other writ, order or direction, directing the 2nd respondent to instruct the 3rd, 4th and 5th respondent to withdraw the freezing of bank accounts and demat account, in view of the payments made vide Ext.P4 demand drafts;
- iii) to declare that the petitioner has remitted the entire penalty amount pursuant to Ext.P1 order"

2. When the matter came up for consideration before this Court on 13.02.2015, the following order was passed:-

- " The learned standing counsel appearing for the second respondent submits that the submission made on behalf of the said respondent on 11.02.2015 that the actual liability to

be satisfied by the petitioner, as per Ext.P1 order, was Rs.4 Lakhs (2 lakhs + 2 lakhs) was a mistake and that the extent of liability to be cleared by the petitioner is only Rs. 2 lakhs with interest. It is also pointed out that the sum of Rs. 2 lakhs stated as remitted by way of Ext.P4 Demand Drafts is still to be received to the said respondent, though they have already received a sum of Rs. 19,345/- sent subsequently towards interest.

2. The demand drafts sent by the petitioner, as borne by Ext.P4, could be equated to cash and as such the petitioner shall stand permitted to operate the bank account, subject to giving an undertaking in the form of an affidavit that no further amount is to be cleared in respect of Ext.P1.

List the matter for further consideration on 18.02.2015."

3. The learned counsel for the petitioner points out that, pursuant to the above interim order, the petitioner has already furnished an undertaking with an affidavit to the requisite extent and submits that the entire amount covered by Ext.P1 has already been satisfied and no further amount is due from the petitioner.

4. The learned Standing Counsel appearing for the 2nd respondent submits that, the proceedings will be verified and all further steps will be pursued so as to give necessary clearance to

the respondent Bank.

In the above circumstances, this writ petition is disposed of directing the 2nd respondent to verify the position and take necessary steps for redressal of the grievance of the petitioner. This shall be done at the earliest, at any rate within a period of two weeks from the date of receipt of a copy of the judgment. The interim order already passed by this Court will continue and it will be subject to the finalization of the proceedings as aforesaid.

**P.R.RAMACHANDRA MENON,
JUDGE**

sj