

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No. 7976 of 2015 (V)

PETITIONER(S) :

**BOARD OF DIRECTORS OF THE IRINJALAKUDA CO-OPERATIVE
HOSPITAL LTD.NO.R 954, KOLATHUMPADY, NADAVARAMBA P.O.,
THRISSUR - 680 661, REPRESENTED BY ITS PRESIDENT,
M.P.JACKSON.**

**BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR**

RESPONDENT(S) :

- 1. THE HOUSING AND URBAN DEVELOPMENT CORPORATION LTD.,
REGIONAL OFFICE, "SAPHALAYAM", 3RD FLOOR,
PALAYAM, THIRUVANANTHAPURAM-695 034,
REPRESENTED BY ITS AUTHORISED OFFICER.**
- 2. THE RECOVERY OFFICER,
DEBTS RECOVERY TRIBUNAL, 8TH FLOOR,
K.S.H.B.BUILDING, PANAMPILLY NAGAR,
ERNAKULAM-682 036.**
- 3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
CO-OPERATION(C) DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

**R1 BY SRI.M.A.ABDUL HAKKIM, S.C
R2 & R3 BY GOVERNMENT PLEADER SMT.M.T.SHEEBA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: A TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 18-08-1998.**
- EXT.P2: A TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 28-09-1998.**
- EXT.P3: A TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 30-04-1999.**
- EXT.P4: A TRUE COPY OF THE APPLICATION FOR RELEASE OF LOAN INSTALLMENT SUBMITTED BY THE PETITIONER DATED 30-04-1999.**
- EXT.P5: A TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 12-12-1999.**
- EXT.P6: A TRUE COPY OF THE LETTER ISSUED BY THE FIRST RESPONDENT DATED 15-12-1999.**
- EXT.P7: A TRUE COPY OF THE REVISED CASH FLOW STATEMENT ALONG WITH A COVERING LETTER SUBMITTED BY THE PETITIONER DATED 31-12-1999.**
- EXT.P8: A TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 20-09-2000**
- EXT.P9: A TRUE COPY OF THE FINAL ORDER IN O.A.NO.298 OF 2001 DATED 15-04-2008 OF THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.**
- EXT.P10: A TRUE COPY OF THE ORDER DATED 22-11-2012 IN I.A.1554 OF 2008 IN AIR 534 OF 2008 OF THE DEBTS RECOVERY APPELLATE TRIBUNAL, CHENNAI.**
- EXT.P11: A TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT DATED 14-05-2013 ALONG WITH ANNEXURES.**
- EXT.P12: A TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED 10-07-2013.**
- EXT.P13: A TRUE COPY OF THE RECEIPT DATED 28-03-2014, SHOWING REMITTANCE OF RS.50,00,000/-**
- EXT.P14: A TRUE COPY OF THE RECEIPT DATED 16-04-2014. SHOWING REMITTANCE OF RS.50,00,000/-.**

WP(C).No. 7976 of 2015 (V)

**EXT.P15: A TRUE COPY OF THE LETTER SUBMITTED BY THE PETITIONER
BEFORE THE FIRST RESPONDENT 16-04-2014.**

**EXT.P16: A TRUE COPY OF THE JUDGMENT IN O.P(DRT)NO.11 OF 2014
DATED 04-06-2014.**

**EXT.P17: A TRUE COPY OF THE PROCLAMATION OF SALE NO.16/2014 IN
DRC NO.2963 DATED 27-01-2014.**

**EXT.P18: A TRUE COPY OF THE LETTER DATED 03-03-2015 ISSUED BY
THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

~~~~~  
**W.P.(C).No.7976/2015**  
~~~~~

Dated this the 20th Day of May, 2015

J U D G M E N T

The petitioner is a Co-operative Hospital. They have availed loan from the first respondent. On account of default of repayment of loan amount, the first respondent initiated recovery proceedings before the Debts Recovery Tribunal by filing O.A.No.298/2001. Ext.P9 is the copy of the order on O.A.No.298/2001. Thereafter, the petitioner appealed against that order. Along with the appeal, the petitioner filed an I.A.No.1554/2008 seeking waiver of pre-deposit. That application was dismissed. The appeal is stated to be pending. The petitioner has now approached this Court for the following reliefs:

“i. To issue a writ of mandamus or any other appropriate writ, order or direction, directing the first respondent to consider the

-:2:-

request for one time settlement made by the petitioner and take a decision thereon;

ii. To issue a writ of mandamus or any other appropriate writ, order or direction, directing the third respondent to interact with the first respondent for the purpose of effecting a settlement between the petitioner and the first respondent; and

iii. To grant such other reliefs as this Hon'ble Court may deem fit in the circumstances of this case."

2. It is submitted by the learned counsel for the petitioner that the Government is taking steps to alleviate the financial doldrums of the hospital by securing credit facility or taking loan from other Co-operative Banks and it is also submitted that the petitioner is prepared to settle the entire liability by availing the benefit under the One Time Settlement. It is further submitted that till alternatives as above are exhausted, proceedings for sale shall be directed to be kept in abeyance.

3. In this matter, the first respondent has filed a detailed statement. It is submitted that as per the

--:3:--

prevailing Scheme in the Bank, One Time Settlement facility cannot be extended in cases where a decree or order is passed and therefore, the petitioner cannot be given the said benefit. It is further submitted that huge amount is due from the petitioner and the petitioner cannot be extended any relief in the matter.

4. I am of the view that if the petitioner wants to wipe off the entire liability by obtaining credit facility for taking over the loan by Co-operative Banks or any other agencies, they are free to do so. The petitioner submits that they have already approached the Government seeking help for ways and means to get over financial distress faced by the Hospital. Considering the facts and circumstances, the following directions are issued:

i. If the petitioner is able to obtain any credit facility from any other Co-operative Banks for taking over the loan, that shall be done within a period of three months.

-:4:-

ii. The third respondent shall address the grievances of the petitioner and if it is possible, they shall extend help to the petitioner to tide over such financial distress and appropriate decision shall be taken in this regard by the third respondent within a period of two months.

iii. To facilitate the petitioner for repayment of the liability, proceedings for sale or dispossession shall be kept in abeyance for a period of four months.

iv. It is open to the petitioner to approach the Board of Directors of the first respondent to avail the benefit of One Time Settlement. If the petitioner approaches the Board of Directors within two weeks from the date of receipt of a copy of this judgment, the Board of Directors shall consider the request within a period of two months.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ms