

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WP(C).No. 16740 of 2011 (N)

PETITIONER(S):

- 1. DAMODARAN ,S/O.LATE AYYAPPAN
THAIPARAMBIL VEEDU, AVALOOKKUNNU PO, ALAPPUZHA.**
- 2. AYISH MOHAN, W/O.MOHAN
THAIPARAMBIL VEEDU, T.D.BROTHERS, ASRAMAM
AVALOOKKUNNU PO, ALAPPUZHA.**

BY ADV. SRI.B.PRAMOD

RESPONDENT(S):

- 1. THE CONSUMER DISPUTE REDRESSAL FORUM
ALAPPUZHA - 688 501.**
- 2. SOBHA, MANAPPARAMBIL VEEDU, ARYAD SOUTH
WARD NO.14, AVALOOKKUNNU PO, ALAPPUZHA-688 501.**
- 3. SAVITHRY CHAKRAYUDHAN, KAITHAPARAMBIL
VEEDU, ARYAD SOUTH, WARD NO.08
KOTTAMKULANGARA, AVALOOKKUNNU PO, ALAPPUZHA - 688 501.**

**R2-R3 BY ADV. SRI.ABDUL JALEEL.A
R1 BY SRI P.V.ELIAS, GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

W.P.(C) NO.16740/2011

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : COPY OF THE ORDER DATED 30.10.2008 IN CC NO.275/2006 OF THE CONSUMER DISPUTE REDRESSAL FORUM, ALAPPUZHA**
- P2 : COPY OF THE EA NO.09/2011 IN CC NO.275/2006 OF THE CONSUMER DISPUTE REDRESSAL FORUM, ALAPPUZHA**
- P3 : COPY OF THE SCHEDULE OF PROPERTIES SUBMITTED IN EA NO.09/2011 IN CC NO.275/2006 OF THE CONSUMER DISPUTE REDRESSAL FORUM, ALAPPUZHA**
- P4 : COPY OF THE ORDER DATED 25.11.2010 IN EA NO.65/2010 IN CC NO.299/2008 OF THE CONSUMER DISPUTE REDRESSAL FORUM, ALAPPUZHA**
- P5 : COPY OF THE COPY APPLICATION DATED 16.06.2011 FILED IN EA NO.09/2011 IN C NO.275/2006 OF THE CONSUMER DISPUTE REDRESSAL FORUM, ALAPPUZHA.**

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDHAN, J.

W.P.(C) No.16740 of 2011

Dated this the 24th day of July, 2015

JUDGMENT

The petitioners who suffered an order from the Consumer Disputes Redressal Forum, Alappuzha in CC No.275/2006, are before this Court in this writ petition seeking a declaration that the Consumer Disputes Redressal Forum has no jurisdiction to execute Ext.P1 order by arrest and detention of the petitioners and seeking other consequential reliefs.

2. Going by the averments in the writ petition and the documents on record, the 1st petitioner who was the President of SNPS Trust and the 2nd petitioner who was a Clerk in that Trust were proceeded against alongwith other office bearers/employees of the Trust in a complaint filed by respondents 2 and 3 herein, which resulted in Ext.P1 order passed by the Consumer Disputes Redressal Forum, by which the petitioners alongwith other opposite parties were directed to return the deposited amount of Rs.10,000/- to the 2nd respondent herein with interest at the rate of 18% per annum from 06.07.2006 till the date of entire payment, with a compensation

of Rs.10,000/- for the mental agony, loss and inconvenience together with a cost of Rs.2,000/-. They were also directed to repay the deposited amount of Rs.35,000/- to the 3rd respondent herein with an interest at the rate of 18% per annum from 29.08.2006 till the date of repayment of the entire amount, with a compensation of Rs.10,000/-for mental agony, loss and inconvenience together with a cost of Rs.2,000/-. The petitioners alongwith other opposite parties were directed to pay the aforesaid amounts within 30 days from the date of order.

3. Against Ext.P1 order passed by the Consumer Disputes Redressal Forum, Appeal No.409/2011 was filed before the Kerala State Consumer Disputes Redressal Commission. The State Commission by judgment dated 22.06.2010 partly allowed the said appeal and Ext.P1 order was modified as follows:

"The impugned order dated 30.10.2008 passed by CDRF, Alappuzha in CC No.275/2006 is modified and thereby the opposite parties are directed to refund the deposit amount of Rs.10000/- to the first complainant with interest at the rate of 12% per annum from 06.07.2006 till the date of realization and also cost of Rs.2000/-. The opposite parties are also directed to refund the deposit amount of Rs.35000/- to the second complainant with interest at the rate of 12% per annum from 29.08.2006 till realization and cost of Rs.2000/-. The order passed by the Forum

below to pay compensation of Rs.10000/- each to the complainants 01 and 02 is set aside. The rate of interest at 18% per annum ordered by the Forum below is reduced to 12% per annum. As far as the present appeal is concerned, the parties are directed to suffer their respective costs."

4. For executing Ext.P1 order passed by the Consumer Disputes Redressal Forum as modified by the State Commission in judgment dated 22.06.2010 in Appeal No.409/2009, respondents 2 and 3 filed E.A.No.9/2011 in CC No.275/2006. The grievance of the petitioners in this writ petition is that, in the aforesaid execution petition, the Consumer Disputes Redressal Forum has passed an order dated 15.06.2011 issuing warrant of arrest against them. It is in such circumstances, the petitioners have approached this Court in this writ petition seeking various reliefs.

5. By order dated 22.06.2011, while admitting this writ petition, this Court has stayed execution of warrant for a period of one month on condition that the petitioners deposit 50% of the disputed liability within two weeks. The petitioners have not chosen to get the aforesaid order extended thereafter. There is also no material to indicate that, the petitioners have complied with the condition stipulated in the order dated 22.06.2011.

6. I heard the arguments of the learned counsel for the petitioner.

7. If the petitioners are aggrieved by the order by which the Consumer Disputes Redressal Forum has ordered issuance of warrant of arrest against them in the execution petition filed by respondents 2 and 3, it is for them to obtain a copy of the same and challenge it in an appropriate proceedings. Therefore, in this writ petition filed even without producing a copy of the aforesaid order, dated 15.06.2011 the legality or otherwise of the aforesaid order passed by the Consumer Disputes Redressal Forum cannot be considered.

In such circumstances the petitioners are not entitled for the reliefs sought for in the writ petition and the writ petition is dismissed.

It is made clear that the dismissal of this writ petition will not prejudice the right, if any, of the petitioners to challenge order dated 15.06.2011 of the Consumer Disputes Redressal Forum in E.A.No.9/2011 in CC No.275/2006 before the appropriate Forum.

sd/-
ANIL K. NARENDRA,
JUDGE