

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYASHTA, 1937

W.P.(C).No.15013 of 2015 (B)

PETITIONER(S):-

NANDINI, AGED 45 YEARS, W/O.RAMU,
L.D.CLERK, COLLEGE OF NURSING,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.

BY ADVS.SRI.THIRUMALA P.K.MANI
SRI.D. DIPU.

RESPONDENT(S):-

1. KERALA TRANSPORT DEVELOPMENT FINANCE CORPORATION LIMITED,
TRANS TOWERS, VAZHUTHACAUD,
THIRUVANANTHAPURAM - 695572,
REPRESENTED BY ITS OFFICER-IN-CHARGE OF
LEGAL AND RECOVERY SECTION,
SREEKUMAR S.S.
2. PRINCIPAL,
GOVERNMENT NURSING COLLEGE, MEDICAL COLLEGE,
THIRUVANANTHAPURAM - 695 011.
3. ADMINISTRATIVE OFFICER,
MEDICAL COLLEGE, THIRUVANANTHAPURAM - 695 011.
4. THE DIRECTOR
DIRECTORATE OF MEDICAL EDUCATION, MEDICAL COLLEGE,
THIRUVANANTHAPURAM - 695 011.
5. M.RAMU
9F, 1ST STREET, DHARMALINGUM COMPOUND
PALLIVILANAGARCOVIL, VEKLOLURUNI MADOM,
KANYAKUMARI - 629 001.

R1 BY STANDING COUNSEL SRI.SUNIL K.R.
R2 TO R4 BY GOVERNMENT PLEADER SMT.C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P-1: TRUE COPY OF THE STATEMENT OF ACCOUNT ISSUED ON 16.3.2015 OF THE LOAN AVAILED BY THE 5TH RESPONDENT.
- EXT.P-2: TRUE COPY OF THE JUDGEMENT IN ST NO.1126/2008 DATED 24.2.2010.
- EXT.P-2(a): TRUE COPY OF THE JUDGEMENT IN ST NO.2240/2009 DATED 16.12.2011.
- EXT.P-2(b): TRUE COPY OF THE JUDGEMENT IN ST NO.465/2009 DATED 6.7.2011.
- EXT.P-3: TRUE COPY OF THE RECOVERY NOTICE DATED 3.2.2015 ISSUED BY THE 4TH RESPONDENT TO THE 2ND RESPONDENT.
- EXT.P-4: TRUE COPY OF THE REQUISITION NOTICE DATED 22.12.2015 ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT.
- EXT.P-5: TRUE COPY OF SALARY SLIP OF THE PETITIONER DATED 2.5.2015.
- EXT.P-6: TRUE COPY OF RECOVERY NOTICE DATED 1.7.2013 ISSUED BY THE THIRUVANANTHAPURAM SERVICE CO-OPERATIVE BANK LTD NO.T.131.
- EXT.P-6(a): TRUE COPY OF THE RECOVERY NOTICE DATED 22.5.2014 ISSUED BY THE PEROORKADA SERVICE CO-OPERATIVE BANK LTD NO.1412.
- EXT.P-6(B): TRUE COPY OF THE RECOVERY NOTICE DATED 27.6.2014 ISSUED BY THE MEDICAL COLLEGE EMPLOYEES CREDIT CO-OPERATIVE SOCIETY LTD.NO.T.721.
- EXT.P-7: TRUE COPY OF THE UNDERTAKING LETTER ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 23.10.2014 ALLOWING TO RECOVER AN AMOUNT OF RS.8000/-.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.15013 of 2015-B

Dated this the 11th day of June, 2015

JUDGMENT

The petitioner is aggrieved with recovery from salary attempted by the 1st respondent for satisfaction of a loan; admittedly availed by the 5th respondent, the husband of the petitioner. The loan is said to have been availed on 07.02.2005 and the period of five years for repayment is said to have expired on 07.02.2010. The petitioner's contentions are two-fold; one that certain prosecutions under Section 138 of the Negotiable Instruments Act, 1881 was initiated by the 1st respondent, which was settled on satisfaction of the entire dues and the second is that, the proceedings now taken for recovery from salary is hit by limitation.

2. Going by Exhibit P2 series of documents produced by the petitioner, it only indicates that three prosecutions were filed, which were settled before the Magistrate's Court. The amount for which the settlement was arrived at, is not evident from Exhibit P2 series of orders. The petitioner had also stood

surety for a loan, for which the payments had to be made in Equated Monthly Instalments. The fact that three prosecutions were initiated would clearly indicate that the said prosecutions were on dishonour of three cheques for three separate monthly instalments. Hence, the satisfaction of the entire loan as claimed by the petitioner cannot be countenanced.

3. With respect to the issue of limitation, it has to be noticed that the 1st respondent, a Corporation under the Government, had initiated recovery proceedings as early as on 19.01.2010 and had sent a reminder on 25.10.2010 as indicated in the two documents produced by the Corporation along with a memo. The statement filed in the case specifically refers to the various reminders issued to the employer, being the Director, Directorate of Medical Education, Thiruvananthapuram. The petitioner was before this Court when recovery from her salary was again threatened as per Exhibit P4, which did not happen earlier, probably because the recovery was not possible under Section 60 of the Code of Civil Procedure. The 1st respondent has initiated proceedings at the appropriate time, the delay on the part

of the employer in making deductions, shall not operate as against the creditor. The creditor, herein, has initiated proceedings for recovery at the appropriate time and it is also admitted that the petitioner has undertaken to the course of recovery from her salary when default is committed.

The writ petition, hence, is dismissed. No costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]