

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 21341 of 2010 (P)

PETITIONER(S):

**SAJ FLIGHT SERVICES PVT.LTD.,
AIRPORT, THIRUVANANTHAPURAM, REPRESENTED
BY ITS DIRECTOR, REJI VARGHESE.**

**BY ADVS.SRI.P.A.AHAMMED
SRI.THOUFEEK AHAMED**

RESPONDENT(S):

- 1. STATE BANK OF INDIA, REPRESENTED BY ITS
BRANCH MANAGER, FORT BRANCH, THIRUVANANTHAPURAM. PIN-695 001**
- 2. THE BANKING OMBUDSMAN, RESERVE BANK
OF INDIA, THIRUVANANTHAPURAM. PIN- 695 001**

R BY STANDING COUNSELSRI.P.V.SURENDRANATH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD

WP(C).No. 21341 of 2010 (P)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE LETTER NO.FORTBRAN/SARC/TVM/09 DATED
22.01.2010

EXHIBIT P2: TRUE COPY OF THE WP(C) NO.7030/2010 FILED BY THE PETITIONER
BEFORE THIS HON'BLE COURT.

EXHIBIT P3: TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT DATED 16.03.2009.

EXHIBIT P4: TRUE COPY OF THE ORDER NO.OBO(T)8698/13651/2009-10 DATED
22.03.2010.

EXHIBIT P5: TRUE COPY OF THE LETTER FROM THE PETITIONER TO THE 2ND
RESPONDENT DATED 25.03.2010.

EXHIBIT P6: TRUE COPY OF THE ORDER NO.OBO (T)8960/13651/2009-10 DATED
31.03.2010.

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD

K.VINOD CHANDRAN, J.

W.P(C) No.21341 of 2010

Dated this the 27th day of July, 2015

JUDGMENT

The petitioner is aggrieved with the Ext.P4 order of the Banking Ombudsman in which the complaint was rejected for reason of the petitioner having approached the High Court with a writ petition on the very same cause of action. The petitioner admittedly had availed of finance from State Bank of Saurashtra which was later amalgamated to the State Bank of India. On default being committed in the overdraft account, the petitioner's loan account was declared as a non-performing asset and proceedings were taken to recover the dues.

2. The petitioner applied for a One Time Settlement which was rejected. The petitioner however paid all the entire amounts and the subject matter of the complaint was the refusal to grant the One Time Settlement. The petitioner had in fact filed a writ petition on the basis of the payment made by the petitioner and

sought for handing over of the title deeds mortgaged, to the respondent-bank. The petitioner filed compliant at Ext.P3 dated 16.03.2010. The writ petition produced at Ext.P2 is dated 01.03.2010. The writ petition was disposed of on 12.03.2010 finding that the same is infructuous in view of the return of the documents effected by them.

3. It is in such circumstances, the petitioner claims that the Banking Ombudsman ought to have considered the claim. True at the time when the complaint was filed, there was no writ petition pending and Ext.P4 may not be perfectly correct. However, it is to be noticed that the petitioner had paid the entire money and sought for the return of the title deeds as per Ext.P2 invoking the extraordinary jurisdiction of this Court. After obtaining such title deeds satisfying the amounts due voluntarily, the petitioner cannot turn around and challenge the denial of One Time Settlement.

4. In such circumstances, this Court is of the

opinion that no interference need be caused to the order of the Banking Ombudsman.

The writ petition is dismissed.

Sd/-
K.VINOD CHANDRAN
JUDGE

AD