

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No. 19373 of 2015 (V)

PETITIONER(S):

**INDIAN OVERSEAS BANK,
CHENGANNUR BRANCH, COURT ROAD, CHENGANNUR,
REPRESENTED BY ITS CHIEF MANAGER,
SMT. GEETHAKUMARI. M.P.**

**BY ADVS.SRI.GEORGE VARGHESE (MANACHIRACKEL),
SRI.P.R.MILTON,
SRI.K.J.CHACKOCHAN,
SMT.SALI. P. MATHEW (MUNNAR).**

RESPONDENT(S):

- 1. D. SASI,
PROP. M/S.SREE SHAKTHI COIR WORKS,
PULIMUKATH VARIKOLIL PUTHEN VEEDU, AYANOLIL,
VADAKKETHIL VEEDU, VETTIKODU P.O, KATTANAM,
ALLEPPEY DISTRICT.**
- 2. KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
SASTHAMANGALM P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1. TRUE COPY OF THE NOTICE ISSUED TO THE 1ST RESPONDENT U/S. 13(2) OF SARFAESI ACT.
- EXT.P2. TRUE COPY OF THE COMPLAINT NO.CC. 67/2013 DATED NIL FILED BY THE 1ST RESPONDENT BEFORE THE 2ND RESPONDENT.
- EXT.P3. TRUE COPY OF THE STAY ORDER DATED 03/09/2013 IN IA NO.970/2014 PASSED BY THE 2ND RESPONDENT.
- EXT.P4. TRUE COPY OF THE NOTICE OF HEARING DATED 09/09/2013 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P5. TRUE COPY OF THE OBJECTION DATED 19/06/2014 FILED BY THE PETITIONER TO IA NO.970/2014 IN CC NO.67/2013 BEFORE THE 2ND RESPONDENT .
- EXT.P6. TRUE COPY OF VERSION DATED 19/06/2014 SUBMITTED BY THE PETITIONER IN CC. 67/2013 BEFORE THE 2ND RESPONDENT.
- EXT.P7. TRUE COPY OF THE PETITION DATED 03/02/2015 FILED BY THE PETITIONER IN CC. 67/2013 BEFORE THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.19373 of 2015

Dated this the 29th day of June, 2015

JUDGMENT

The petitioner is a Bank. They approached this Court feeling aggrieved by Ext.P3 order passed by the Kerala State Consumer Disputes Redressal Commission.

2. It appears that the first respondent-borrower approached the Kerala State Consumer Disputes Redressal Commission alleging that machineries supplied by the second respondent in the complaint are defective and on account of this, he is entitled for compensation. It appears that he purchased the machineries with the financial aid provided by the Bank.

3. Learned counsel for the Bank submits that on account of the order passed by the Commission, they are unable to approach even the Debts Recovery Tribunal by filing the Original Application and any further delay in the matter would deprive them for prosecuting the Original Application on account of the period of limitation.

In that view of the matter, I am of the view that the filing of the Original Application will not stand in the way of the petitioner as it is only for the determination of the liability of the first respondent and the recovery would depend upon the outcome of the Original Application. Therefore, the interim order passed by the Commission will not stand in the way of the petitioner filing Original Application. against the first respondent. Taking note of the facts and circumstances, the complaint before the Commission shall also be disposed within two months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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