

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 27132 of 2012 (N)

PETITIONER(S) :

M/S.PULIYANMACKAL TRADERS, KARUVANCHAL,
REPRESENTED BY ITS MANAGING PARTNER, JOHN MATHEW.

BY ADVS.SRI.E.HARIDAS
SRI.CYRIAC IYPE

RESPONDENT(S) :

1. THE CHIEF MANAGER AND AUTHORISED OFFICER,
SOUTH INDIAN BANK, REGIONAL OFFICE, KOZHIKODE,
P.B.NO.933, CHAKKORATHUKULAM WEST HILL ,
P.O.KOZHIKODE9- 673005.

2. THE BRANCH MANAGER,
SOUTH INDIAN BANK LTD, . P.B.NO.41, 1ST FLOOR,
SWADESHI SHOPPING COMPLEX, BANK ROAD, KANNUR
PIN 670001.

3. THE BANKING OMBUDSMAN,
O/O.THE BANKING OMBUDSMAN, RESERVE BANK OF INDIA,
BAKERY JUNCTION, THIRUVANANTHAPURAM 695033.

R1,R 2 BY ADV. SRI.K.K.JOHN, SC,SOUTH INDIAN BANK
R1,R 2 BY ADV. SRI.ASISH K.JOHN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C) .No. 27132 of 2012 (N)

APPENDIX

PETITIONER(S) EXHIBITS

EXT-P1. TRUE COPY OF THE NOTICE DATED 6/12/2010 ISSUED UNDER SEC.13(4) OF THE SARFAESI ACT

EXT-P2 . TRUE COPY OF THE INTERIM ORDER DATED 23/10/2010 IN WP(C) .38315/2010 (L)

EXT-P3. TRUE COPY OF THE REPRESENTATION DATED 21/1/2011 FILED BY THE PETITIONER BEFORE THE MANAGER, KANNUR BRANCH

EXT-P4. TRUE COPY OF THE COMMUNICATION DATED 9/1/2012 OF THE ASSISTANT GENERAL MANAGER

EXT-P5. TRUE COPY OF THE LAWYER NOTICE SENT BY THE PETITIONER ON 27/2/2012

EXT-P6. TRUE COPY OF THE REPLY SENT TO PETITIONER'S LAWYER ON 16/3/2012

EXT-P7. TRUE COPY OF THE COMMUNICATION DATED 18/6/2012 SENT BY THE CHIEF MANAGER OF KANNUR REGIONAL OFFICE

EXT-P8. TRUE COPY OF THE NOTICE DATED 14/8/2012 OF THE ADVOCATE COMMISSIONER

EXT-P9. TRUE COPY OF THE JUDGMENT DATED 10/10/2012 IN W.A.1816/2012 OF THIS COURT.

EXT-P10. TRUE COPY OF THE LAWYER NOTICE ISSUED BY JESSY M.THOMAS DATED 25/10/2012

EXT-P11. TRUE COPY OF THE APPLICATION DATED 27/10/2012 FILED BY THE PETITIONER BEFORE THE BRANCH MANAGER UNDER THE RIGHT TO INFORMATION ACT

EXT-P12. TRUE COPY OF THE COMMUNICATION DATED 1-11-2012 OF THE BRANCH MANAGER, KANNUR BRANCH.

RESPONDENTS' EXHIBITS.: NIL

OKB

True copy

P.A. to Judge

K.HARILAL, J.

W.P.(C) No.27132 of 2012

Dated this the 17th day of November, 2015.

JUDGMENT

The petitioner is a partnership firm, which availed of a loan for Rs.1.5 crores from the respondent bank. The relief sought for in this writ petition is as follows:

“(i) issue a writ of certiorari to quash Ext.Pl2, (ii) declare that the information sought for as per Ext.Pl0 is covered by the Right to Information Act and the Bank is liable to furnish the details sought for within time (iii) issue a writ of mandamus commanding the respondent Bank to receive Ext.Pl1 application and furnish the details sought for in Ext.Pl0 including the OTS sanction order forthwith (iv) declare that the petitioner firm is not liable to remit any further amount to the bank in view of the payment made before 30/11/2011 as part of OTS order etc.”

2. The main grievance projected in this writ petition is that the petitioner has preferred Ext.Pl application under the Right to Information Act, 2005 to get the copy of the order sanctioning One Time

Settlement. But the same has not been served to the petitioner on the reason that the respondent bank will not come under the purview of the Right to Information Act, 2005. The respondent bank filed a counter statement to the effect that the respondent bank is a company registered under the Companies Act for the purpose of carrying out trade or business and for making profit. In short, the respondent is a private banking company under the control of the Reserve Bank of India only and the private companies would not be amenable to the Right to Information Act as well as writ jurisdiction of this Court under Article 226 of the Constitution of India.

3. Obviously, the petitioner is aggrieved by the non-issuance of the copy of the order by which the facility under 'One Time Settlement' has been granted to him. It is seen that the petitioner has not availed of the statutory remedies provided under Section 19 of the Right to Information Act. This court is not inclined to resolve the dispute, whether the respondent bank would come under the purview of the

Right to Information Act, for which statutory appellate authority is specifically provided under Section 19 of the said Act. In the above view, this Court declines jurisdiction and this writ petition is dismissed accordingly.

Sd/-
K. HARILAL, JUDGE

okb.