

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 27989 of 2009 (P)

PETITIONER:

1. THE SYNDICATE BANK,
REPRESENTED BY THE GENERAL MANAGER, HEAD OFFICE, MANIPAL
KARNATAKA.
2. THE BRANCH MANAGER,
SYNDICATE BANK, KOLLAM BRANCH, KOLLAM.

BY ADV. SRI.R.S.KALKURA

RESPONDENT(S):

1. A.SHAMSUDEEN, S/O.ABDUL RAZAK,
HASEENA MANZIL, M.G.STREET, THAMARAKKULAM
KOLLAM.
2. CONSUMER DISPUTES REDRESSAL FORUM,
KOLLAM, REPRESENTED BY ITS SECRETARY.
3. KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
REPRESENTED BY ITS SECRETARY, TRIVANDRUM.
4. SUPERINTENDENT OF POLICE,
S.P. OFFICE, KOLLAM.

R1 BY ADV. SRI.B.KRISHNA MANI
SR. GOVERNMENT PLEADER SRI SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.27989/09

PETITIONER'S EXTs:

- EXT.P1: COPY OF JUDGMENT DT.5.2.09 IN APPEAL NO.8/2007 ON THE FILE OF THE KERALA STATE CONSUMER DISPUTES REDRESSAL COMMISSION, TVM.
- EXT.P2: COPY OF ACKNOWLEDGEMENT ISSUED BY THE NATIONAL COMMISSION.
- EXT.P3: COPY OF E.P.NO.4/07 IN C.C.NO.421/04 OF THE CDRF, KOLLAM.
- EXT.P4: COPY OF ORDER DT.27.8.09 PASSED BY CDRF, KOLLAM IN E.P.NO.4/07 IN C.C.NO.421/04.
- EXT.P5: COPY OF ORDER DT.9.9.09 OF THE CDRF, KOLLAM IN EP NO.4/07 IN C.C.NO.421/04.
- EXT.P6: COPY OF ORDER OF WARRANT DT.24.9.09 OF THE CDRF, KOLLAM IN EP NO.4/07 IN C.C.NO.421/04.
- EXT.P7: COPY OF REVISION PETITION DT.30.9.09 FILED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT.
- EXT.P8: COPY OF STAY PETITION ATTACHING EXT.P7.
- EXT.P9: COPY OF DEMAND DRAFT NO.636628 DT.24.9.09.
- EXT.P10: COPY OF DEMAND DRAFT NO.626629 DT.24.9.09.

RESPONDENTS' EXTs: NIL

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.27989 Of 2009

DATED THIS THE 1st DAY OF JULY, 2015

JUDGMENT

The petitioners have filed this Writ Petition seeking a writ of mandamus commanding the 2nd respondent not to proceed with Execution Petition No.4/2007 in O.P.No.421/2004 on the file of the Consumer Disputes Redressal Forum, Kollam by accepting the amount of ₹32,000/- deposited by way of Exts.P9 and P10 demand notices and not to disburse or release the same till the final disposal of Revision Petition No.3379/2009 on the file of the Kerala State Consumer Disputes Redressal Commission.

2. By order dated 6.10.2009, this Court has granted an interim order staying the operation of Ext.P6 order passed by the Consumer Disputes Redressal Forum, Kollam in E.P.No.4/2007 in C.C.No.421/2004 and the execution of the order of arrest by the Consumer Disputes Redressal Forum, Kollam, until further orders.

3. Later, by order dated 21.10.2009, this Court ordered that the interim order passed by this Court on 6.10.2009 shall continue to operate with the clarification that, the money deposited

by the petitioners shall not be withdrawn by the 1st respondent until further orders.

4. On 3.6.2015, when this Writ Petition came up for final hearing, the learned Standing Counsel for the petitioner bank sought time to ascertain whether R.P.No.3379/2009 filed by the bank against Ext.P1 judgment of the Kerala State Consumer Disputes Redressal Commission, Kollam in Appeal No.8/2007 is still pending consideration before the National Commission. Today, the learned Standing Counsel for the Bank on instructions submitted that, the said revision petition is still pending before the National Commission and that he has no instruction as to whether the National Commission has already granted stay of operation of Ext.P1 order.

5. I heard the arguments of the learned Standing Counsel for the petitioner Bank, the learned counsel for the 1st respondent and also the learned Senior Government Pleader for the 4th respondent.

6. Since the petitioner Bank has already moved the National Commission in R.P.No.3379/2009 challenging Ext.P1

order passed by the State Commission in A.S.No.8/2007, it is for the petitioners to seek appropriate interim orders from the National Commission during the pendency of R.P.No.3379/2009. When the petitioner Bank has already availed the revisional jurisdiction of the National Commission, it would not be open for them to approach this Court under Article 226 of the Constitution of India seeking interim measures during the pendency of that revision petition. Therefore the petitioners are not entitled for any of the reliefs prayed for in this Writ Petition and the same is dismissed.

But it is made clear that the interim order passed by this Court on 6.10.2009 and modified by order dated 21.10.2009 will continue for a period of two months from the date of this judgment, so as to enable the petitioners to move the National Commission for appropriate interim orders during the pendency of R.P.No.3379/2009.

Sd/-

ANIL K.NARENDRA, JUDGE

dsn