

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 32722 of 2015 (M)

PETITIONER(S):

**SHIBU E.V., PROPRIETOR,
M/S. ELUVATHINGAL MARKETING COMPANY,
S/O.VARGHESE, ELUVATHINGAL HOUSE,
IQ ROAD, CHALAKKUDY-680 307.**

**BY SRI.RENJITH THAMPAN, SENIOR ADVOCATE.
ADV. SMT.P.R.REENA.**

RESPONDENT(S):

- 1. COMMITTEE FOR IDENTIFICATION OF
WILFUL DEFAULTERS, CONSTITUTED UNDER THE
RBI MASTER CIRCULAR ON WILFUL DEFAULTERS,
SOUTH INDIAN BANK, REPRESENTED BY ITS
EXECUTIVE DIRECTOR, HEAD OFFICE,
T.B. ROAD, MISSION QUARTERS, THRISSUR-680 001.**
- 2. THE SOUTH INDIAN BANK,
REPRESENTED BY ITS GENERAL MANAGER
(CREDIT RECOVERY), HEAD OFFICE, T.B. ROAD,
MISSION QUARTERS, THRISSUR-680 001.**
- 3. THE SOUTH INDIAN BANK,
REGIONAL OFFICE, REPRESENTED BY ITS
REGIONAL MANAGER, IRINJALAKKUDA, PIN-680 123.**
- 4. THE SOUTH INDIAN BANK, CHALAKKUDY BRANCH,
REPRESENTED BY ITS MANAGER, CHALAKKUDY-680 307.**

BY ADV. SRI.K.K.JOHN, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE RBI CIRCULAR NO.RBI/2015-16/100 DBR
NO.CID.BC.22/20.16.003/2015-16 DATED 01/07/2015 SANDS
ANNEXURES.
- EXT.P2 COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT
DATED 13/10/2015.
- EXT.P3 COPY OF THE WRITTEN SUBMISSIONS FILED BY THE
PETITIONER DATED 15/10/2015.
- EXT.P4 COPY OF THE STATEMENTS ISSUED BY THE 4TH RESPONDENT
BRANCH WITH RESPECT TO THE PETITIONER'S ACCOUNTS FOR
THE PERIODS FROM 01/10/2014 TO 26/10/2015. AC. NO.1064.
- EXT.P5 COPY OF THE STATEMENTS ISSUED BY THE 4TH RESPONDENT
BRANCH WITH RESPECT TO THE PETITIONER'S ACCOUNTS FOR
THE PERIODS FROM 01/10/2014 TO 26/10/2015 AC. NO.1429.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32722 OF 2015 (M)

Dated this the 28th day of October, 2015

J U D G M E N T

The challenge in the writ petition is against Ext.P2 letter that has been served on the petitioner by the 1st respondent Committee, asking him to show cause as to why further proceedings should not be continued on the basis of the identification by the 1st respondent Committee of the petitioner as a willful defaulter. The apprehension of the petitioner in the writ petition is that consequent to Ext.P2, the petitioner will be deprived of various privileges and benefits that are presently being offered to the petitioner by the lending banks and it would also seriously affect the creditworthiness of the petitioner.

2. I have heard the learned counsel for the petitioner as also the learned Standing counsel for the respondents.

3. The learned Standing counsel for the respondents would point to the various clauses in Ext.P1 Master Circular of the Reserve Bank of India, which would indicate that Ext.P2 is only the first in a

series of procedures, before the petitioner can be found to be a willful defaulter. It is pointed out that Ext.P2 is only in the nature of show cause notice to which the petitioner will have to file objections and thereafter a finding would have to be entered by the 1st respondent Committee on the issue of whether the petitioner is a willful defaulter or not. It is further submitted that, even if such a finding is entered by the 1st respondent Committee, the 1st respondent Committee cannot act upon the same unless the Review Committee goes through the proceedings of the 1st respondent Committee and confirms the findings of the 1st respondent Committee.

On the consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that the challenge in the writ petition against Ext.P2, at this stage, is premature. Ext.P2 is only in a nature of a show cause notice calling upon the petitioner to show cause as to why the petitioner should not be treated as a willful defaulter. Although Ext.P2 letter intimates the petitioner of the conclusion arrived by the 1st respondent Committee with regard to the petitioner being a willful defaulter, I am of the view that the said letter should be treated only as a show cause notice issued to the

petitioner informing him of a proposal to arrive at such a conclusion. This appears to be the tenor of Ext.P1 master Circular of the RBI also. Accordingly, without prejudice to the rights of the petitioner to raise all objections against the proposal mooted in Ext.P2 letter issued to the petitioner, I dismiss the writ petition, in its challenge against Ext.P2 letter. I make it clear that the respondents shall abide strictly by the terms of Ext.P1 master Circular before coming to any conclusion with regard to the status of the petitioner as a willful defaulter.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/28/10/15