

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 34346 of 2014 (P)

PETITIONER(S)/PETITIONERS:

- 1. M/S.KOLLENGODE EDUCATIONAL AND CHARITABLE TRUST,
'MIDHUN'COMPLEX, KOLLENGODE P.O, PALAKKAD DISTRICT
REP. BY ITS CHARIMAN K.UNNIKRISHNAN.**
- 2. K.UNNIKRISHNAN
S/O.KUNJU, KAUSTUPAM, VADAKKANCHERRY,
PALAKKAD DISTRICT.**
- 3. M.K.MOHANAKUMAR
S/O.KUTTIKRISHNAN, MOOLAMKODE P O, PALAKKAD DISTRICT.**

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT(S)/RESPONDENTS:

- 1. STATE BANK OF INDIA
REP BY CHIEF MANAGER, REGIONAL BUSINESS OFFICE
ROBINSON ROAD, PALAKKAD, PIN-678014**
- 2. BRANCH MANAGER
STATE BANK OF INDIA, MUTHALAMADA BRANCH, PALAKKAD DIST
P O - 678507**

**R. BY ADV. SRI.R.S.KALKURA, SC, SBI
R BY SRI.N.RAJAGOPALAN NAIR, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

P1:TRUE COPY OF THE GOVERNMENT ORDER GO(MS)NO 107/09/H EDN.DTD 24/7/2009 ISSUED TO THE IST PETITIONER.

P2:-TRUE COPY OF THE BROCHURE OF THE ENGINEERING COLLEGE, PALAKKAD INSTITUTE OF SCIENCE AND TECHNOLOGY RUN BY THE IST PETITIONER.

P3:-TRUE COPY OF THE COMMUNICATION ISSUED BY THE ALL INDIA COUNCIL FOR TECHNICAL EDUCATION DTD 3/6/2014 ASKING THE IST PETITIONER.

P4:-TRUE COPY OF THE REPRESENTATION DTD 4/7/2014 SENT BY THE IST PETITIONER TO THE ALL INDIA COUNCIL FOR TECHNICAL EDUCATION.

P5:-TRUE COPY OF STATEMENT OF ACCOUNTS AS ON 30/7/2014 IN RESPECT OF THE FIRST TERM LOAN OF RS 80 LAKHS.

P16:-TRUE COPY OF STATEMENT OF ACCOUNTS AS ON 30/7/2014 IN RESPECT OF THE FIRST TEAM LOAN OF RS.2.19 CRORES.

P2 7:-TRUE OF STATEMENT OF ACCOUNTS AS ON 30/7/2014, IN RESPECT OF THE FIRST TERM LOAN OF RS 69 LAKHS.

8:-TRUE COPY OF THE SUMMONS ISSUED BY THE DEBT RECOVERY TRIBUNAL IN OA 398/2013 DTD 26/8/2013.

P9:-TRUE COPY OF THE CERTIFICATE DTD 17/4/2013 ISSUED BY THE PRINCIPAL

P10:_TRUE COPY OF THE LIST OF TEACHERS WORKING IN THE ENGINEERING COLLEGE.

P11:-TRUE COPY OF THE LIST OF NON-TEACHING STAFF WORKING IN THE ENGINEERING COLLEGE.

P12:-TRUE COPY OF THE ORDER ISSUED BY THE CALICUT UNIVERSITY DTD 30/5/2013.

P13:-TRUE COPY OF COMMUNICATION ISSUED BY THE IST RESPONDENT DTD 26/11/2014.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.34346 OF 2014 (P)

Dated this the 1st day of September, 2015

J U D G M E N T

The 1st petitioner is an educational charitable trust that established an Engineering college, and the 2nd and 3rd petitioners are the Board members of the said trust. The 1st petitioner had availed three term loans from the 2nd respondent, and in connection with the default committed by the 1st petitioner in repayment of the amounts, recovery action was initiated by the respondent bank. The respondent bank thereafter put the immovable property of the 1st petitioner, which comprised of the Engineering College and the surrounding land, for auction sale for realisation of an amount of Rs.3,63,81,378/- together with accrued interest. The petitioners therefore moved this Court through the present writ petition. By an interim order dated 12.1.2015, this Court had permitted the respondent bank to put up the property for auction sale and proceed with the said auction, without confirming the sale in favour of any purchaser. It was made clear that it would be open to the petitioners to effect part payments towards the outstanding amounts due to the bank in the meanwhile,

and the issue of confirmation of sale in favour of any purchaser identified by the bank could be considered at the next date of posting. It is now submitted by counsel for the respondent bank that, pursuant to the steps taken by the respondent bank for putting up the property for sale, there were no buyers who turned up for bidding at the auction sale. Resultantly, the respondent bank was constrained to drop the proceedings for sale and it now proposes to initiate fresh steps for bringing the property to sale. Taking note of the said submission of counsel for the respondent bank, I find that the cause of action that led to the filing of the present writ petition has since ceased to exist, and if the respondent bank takes any fresh steps for putting the property up for auction sale, then the petitioners would be free to approach this Court or any other legal forum for appropriate reliefs against the action of the respondent bank. I therefore dispose this writ petition by recording the submission of counsel for the respondent bank that they propose to initiate fresh steps for putting the property up for auction sale and due notice of the sale would also be served on the petitioners as and when they go ahead with such a proposal. While disposing this writ petition, I also take note of the submission of counsel for the petitioners that the petitioners propose

to apply for the benefit of a One Time Settlement [OTS] Scheme with regard to the balance amounts outstanding to the respondent bank. Taking note of the submission, and while disposing this writ petition, I permit the petitioners to approach the respondent bank with an application for the extension of OTS Scheme in respect of the balance amounts outstanding to the respondent bank. If there is any such scheme in vogue, the respondent bank shall consider the application submitted by the petitioners and take a decision thereon with due intimation to the petitioners.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp