

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 38228 of 2015 (C)

PETITIONER(S):

- 1. N. KRISHNANKUTTY, S/O. NARAYANA PILLAI,
55 YEARS OF AGE, 'THOTTATHIL KIZHAKKETHIL VEEDU',
VENMANNOOR, ANAKKOTTOOR P.O., KOLLAM - 691 505.**
- 2. VIJAYAKUMARI, W/O. N. KRISHNANKUTTY,
43 YEARS OF AGE, 'THOTTATHIL KIZHAKKETHIL VEEDU',
VENMANNOOR, ANAKKOTTOOR P.O., KOLLAM - 691 505.**

**BY ADVS.SRI.K.MOHANAKANNAN,
SRI.H.PRAVEEN (KOTTARAKARA),
SRI.ASHARAF PUTHIYOTTIL.**

RESPONDENT(S):

- 1. M/S. INDUSIND BANK LTD.,
VARINJAM TOWERS, CHINNAKKADA,
KOLLAM -691 003, REPRESENTED BY ITS GENERAL MANAGER.**
- 2. THE AUTHORISED OFFICER,
M/S. INDUSIND BANK LTD., VARINJAM TOWERS,
CHINNAKKADA, KOLLAM-691 003.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 38228 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:-

**P1 - TRUE COPY OF THE NOTICE ISSUED BY THE WAKF TRIBUNAL IN
OP(ARB) NO.519/2015 DATED 28.10.2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.38228 of 2015

Dated this the 16th day of December 2015

JUDGMENT

The petitioner is aggrieved by the order passed by the District court in OP(Arb) No.519/2015, whereby he has been asked to pay an amount of Rs.35,749/-, pursuant to an order of attachment before judgment that is passed under order 38 rule 6 of the Code of Civil Procedure. In the writ petition, the prayer of the petitioner is for the grant of instalments to discharge the liability in Ext.P1 notice issued to him.

2. I have heard the learned counsel for the petitioner. In the nature of the order that I propose to pass, I do not deem it necessary to hear the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that against the order passed under order 38 of the Code of Civil Procedure, the petitioner has a remedy by way of an appeal before this Court, in terms of Section 37 of the Arbitration Conciliation Act r/w order 43 rule 1(q) of the Code of Civil Procedure. The remedy of the

petitioner lies in pursuing the appeal against Ext.P1 order before this Court. To enable the petitioner to pursue his appellate remedy against Ext.P1, I direct that attachment proceedings pursuant Ext.P1 shall be kept in abeyance for a period of one week from today.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/