

Dibi Asugustine Vs. T.Ramankutty

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Court : Kerala

Decided On : Jul-26-2013

Judge : Honourable Mr.Justice P.N.Ravindran

Appellant : Dibi Asugustine

Respondent : T.Ramankutty

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN FRIDAY, THE 26TH DAY OF JULY 2013 4TH SRAVANA, 1935 OP(C).No. 2587 of 2013 (O) ----- APPEAL NO.158/2013 OF THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION, THIRUVANANTHAPURAM PETITIONER(S)/APPELLANTS: ----- 1.SIBI AUGUSTINE, S/O AUGUSTINE, AGED 36 NALAMPURACKAL HOUSE, THURAVOOR P.O. 688532, CHERTHALA TALUK, ALAPPUZHA DISTRICT. 2.SAJI AUGUSTINE, S/O AUGUSTINE, AGED 38 NALAMPURACKAL HOUSE, THURAVOOR P.O. 688532, CHERTHALA TALUK, ALAPPUZHA DISTRICT. 3.SOJAN AUGUSTINE, S/O AUGUSTINE, AGED 32 NALAMPURACKAL HOUSE, THURAVOOR P.O. 688532, CHERTHALA TALUK, ALAPPUZHA DISTRICT. 4.SONY, W/O GIFFY, AGED 34 THACHETHU HOUSE, KARUMANCHERRY EZHUPUNNA P.O., CHERTHALA TALUK, ALAPPUZHA DISTRICT. BY DR.V.N.SANKARJEE, ADVOCATE SMT.R.UDAYA JYOTHI RESPONDENT(S)/RESPONDENTS: ----- 1.T.RAMANKUTTY, RAMANILAYAM, KUTHIYATHODE P.O.,

CHERTHALA TALUK, ALAPPUZHA DISTRICT

533. 2.S.MEENAKSHY, W/O T.RAMANKUTTY, RAMANILAYAM, KUTHIYATHODE P.O. CHERTHALA TALUK, ALAPPUZHA DISTRICT - 688533. 3.PROVIDENCE CHITTY FUND & FINANCE, ERAMALLOOR P.O., CHERTHALA, ALAPPUZHA DISTRICT - 688537. 4.JOYS ANTONY, NALAMPURACKAL HOUSE, THURAVOOR SOUTH P.O., CHERTHALA, ALAPPUZHA DISTRICT. 5.KATHREENA AUGUSTINE, NALAMPURACKAL HOUSE, THURAVOOR SOUTH P.O. 688532, CHERTHALA, ALAPPUZHA DISTRICT. 6.VARGHESE ANTONY, NALAMPURACKAL HOUSE, THURAVOOR SOUTH P.O. 688532, CHERTHALA, ALAPPUZHA DISTRICT. 7.WILSON ANTONY, NALAMPURACKAL HOUSE, THURAVOOR SOUTH P.O. 688532, CHERTHALA, ALAPPUZHA DISTRICT. OP(C).No. 2587 of 2013 (O) ----- 8.LISSY, D/O ANTONY, NALUPURACKAL, PADINJATTUMKARA THEKKUM MURI, THURAVOOR SOUTH VILLAGE, CHERTHALA TALUK, THURAVOOR SOUTH P.O. 688532, ALAPPUZHA DISTRICT. 9.LEENA, D/O ANTONY, NALUMPURACKAL, PADINJATTUMKARA THEKKUM MURI, THURAVOOR SOUTH VILLAGE, CHERTHALA TALUK, THURAVOOR SOUTH P.O. 688532, ALAPPUZHA DISTRICT. THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 26-07-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(C).No. 2587 of 2013 (O) ----- APPENDIX PETITIONER'(S) EXHIBITS: EXT.P1 COPY OF THE EXTRACTS RELATING TO REGISTRATION ISSUED BY THE REGISTRAR OF FIRMS IN RESPECT OF THE 3RD RESPONDENT'S PROVIDENCE CHITTY FUND. EXT.P2 COPY OF THE EXTRACTS RELATING TO REGISTRATION ISSUED BY THE REGISTRAR OF FIRMS IN RESPECT OF THE 3RD RESPONDENT'S PROVIDENCE FINANCE. EXT.P3 COPY OF THE JUDGMENT DATED 15 01.2013 IN OP(C) NO.193/13 OF THE HIGH COURT OF KERALA. EXT.P4 COPY OF THE APPEAL A NO.158/2013 DATED 22 2.2013 PREFERRED BY THE PETITIONERS BEFORE THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION, THIRUVANANTHAPURAM. EXT.P5 COPY OF THE STAY PETITION IA NO.335/2013 IN A.NO.158/13 PREFERRED BY THE PETITIONERS BEFORE THE STATE CONSUMER DISPUTES REDRESSAL COMMISSION, THIRUVANANTHAPURAM. RESPONDENT'(S)

EXHIBITS: NIL //TRUE COPY// PA TO JUDGE BKA P.N.RAVINDRAN, J.

===== O.P.(C)No.2587 of 2013 =====

Dated this the 26th day of July, 2013 JUDGMENT The prayer in this original petition filed by the respondents in C.C.No.59 of 2009 on the file of the Consumer Disputes Redressal Forum, Alappuzha is for an order staying the revenue recovery proceedings in C.C.No.59 of 2009 pending disposal of an appeal (Ext.P4) and the stay petition filed therein (Ext.P5) by them before the Kerala State Consumer Disputes Redressal Forum. Apart from vaguely alleging that the application for stay filed by the petitioners in the appeal filed by them before the Kerala State Consumer Disputes Redressal Forum, stands posted to 21.8.2013 to await service of notice on the respondents therein and in the meanwhile, the revenue recovery authority is hastily pursuing the recovery proceedings initiated against them, the petitioners have not produced any material to show that such proceedings have already been initiated.

2. Under section 25(3) of the Consumer Protection Act, 1986, where any amount is due from any person under an order made by a District Forum, the person entitled to the amount can make an application to the District Forum for the issuance of a certificate for the said amount to the Collector of the District. It is also stipulated that the Collector shall thereupon proceed to recover the amount in O.P.(C)No.2587 o

2. the same manner as arrears of land revenue. The petitioners have not stated anywhere in the original petition that a notice under section 7 of the Kerala Revenue Recovery Act, 1968 or under section 34 thereof has been served on them. They have only vaguely averred that the revenue recovery authority is hastily pursuing the proceedings. The attempt of the petitioners in my opinion appears to be to bypass the Kerala State Consumer Disputes Redressal Commission which has condoned the delay in filing the appeal and has issued notice to the respondents in the appeal and the stay petition filed with it. Such being the situation, I find no reason or justification in granting the reliefs prayed for. It is for the petitioners to move the Kerala State Consumer Disputes Redressal Commission to have the hearing of the stay petition advanced, if notice has

already been served on the respondents therein. I accordingly hold that there is no merit in the instant original petition. The original petition fails and is dismissed with the above observation. Sd/- P.N.RAVINDRAN JUDGE /true copy/ P.A. to Judge
vpv

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