

Government College of Law, Thiruvananthapuram

10th NATIONAL ADR COMPETITION FOR KELSA TROPHY

in association with IQAC and Justice V R Krishna Iyer Chair on ADR Systems

Problem I (Preliminary)

Arun Babu (Plaintiff), Manager of a private firm, has filed a suit for specific performance. Bineesh Raj ,an Engineer, had agreed to sell his house property at Thiruvananthapuram, to Arun Babu for a total sum of Rupees 80 lakhs . Bineesh Raj had taken ₹10 lakhs as advance from Arun Babu and agreed to execute a sale deed in favour of Arun Babu by receiving the balance consideration of ₹70 lakhs within three months. Arun Babu was ready and willing to pay the balance amount within 3 months and get the sale deed executed . Bineesh Raj refused to register the sale deed and demanded ₹ 20 lakhs more by saying that the price of the property in that area has increased three times due to the establishment of a new port .

Bineesh Raj/ Defendant's case:

Arun Babu did not approach him within the stipulated period of three months. Time was the essence of contract. Bineesh Raj had agreed to sell the house for the purpose of purchasing a flat at Bangalore for his daughter. When Arun Babu did not give money on time, the purchase of the flat got cancelled and he lost ₹ 10 lakhs paid in advance for the purchase of the flat at Bangalore. So he did not want to sell the house property to Arun Babu .He did not want to return the advance paid also . Bineesh Raj, the defendant ,wants the case to be dismissed with cost.

The case was referred for mediation

Problem II (Semi Final)

Sourabh and Janaki are Hindus, married to each other, through a ceremony solemnized at a temple on 20-04-2016. Sourabh is a doctor working at Government Medical College, Kochi and Janaki is working as Manager in SBI. After the marriage both of them resided together at the family house of Sourabh, along with his parents in Kochi. Sourabh comes from a more traditional family, where gender roles are clearly defined, while Janaki was raised in a more progressive environment, where she believes in equal partnership and shared responsibilities.

After a year of marriage discord arose between them. Sourabh's family started pressuring for children while Janaki felt that they should focus on their careers and strengthen their relationship first, as she believes in a healthy environment for child's upbringing. However things spiralled down when Sourabh and his family started to taunt and humiliate Janaki about not being a mother at every occasion even in front of friends and relatives. They even tried to make Janaki quit her job and verbally abused her. Janaki often feels that Sourabh dismisses her concerns, while Sourabh believes Janaki is too sensitive and doesn't understand his perspective. This has led to frequent arguments and misunderstandings. Amidst all this, the couple had their first child born on 19-06-2019, named Soundarya.

Soon after, Janaki started having arguments with Sourabh's parents for even silly matters concerning Soundarya. She was sceptical of Sourabh's parents spending time with the baby and always complained about their interactions. She wanted to have a separate household and even threatened Sourabh to desert him and move to her parent's house, if he doesn't accept her wish. She was supported by her own parents, who always took her side and were defensive to him. Sourabh was reluctant as he is the only child of his aged parents. Yet, at Janaki's behest they moved to a separate property in Kochi, registered in the name of Sourabh but bought with Sourabh's savings, a major portion of the 100 sovereigns of Janaki's gold given at the time of marriage as well as a loan. The loan was paid by Janaki and

Sourabh denied further financial contribution.

Over time, Sourabh started drinking, which further aggravated Janaki and their fights, while he claims it to be the result of her verbal harassment. Both partners have developed trust issues. Janaki discovered that Sourabh had been texting an old college friend, and when she questioned him about it, he became defensive, and she felt betrayed and accused him of hiding things from her. Janaki enjoys a vibrant social life, often going out with friends, while Sourabh prefers quieter evenings at home or small gatherings. He is affected by her act where she prioritizes her friends over their child and marriage; she often goes out with friends, leaving him to manage childcare alone.

Both of them find the marriage to be at the verge of breakdown on grounds of cultural disparities, financial disagreements, unwarranted parental interference of both sides and lack of communication. In the event of separation both of them aim for custody of their child, interest in property as well as compensation.

The Participants will represent either Janaki and Sourabh. The conciliator's objective is to guide the parties through a constructive dialogue aimed at resolving their disputes. You will help them identify their core interests, explore solutions that honour both partners' perspectives, and work towards a sustainable agreement that strengthens their marriage while addressing all relevant legal and personal issues.

Problem III (Final)

On 29 September 2023, Tikwana OIL and Natural Gas Company entered into a contract with Albela Enterprises Private Limited for operation and maintenance of storage and offloading vessels. The Albela Enterprises Private Limited is a Group Company belonging to the Hawana Group. The directors and key managerial person of Albela Enterprises Private Limited and Hawana Private Limited are the same. The article of association of the Albela Enterprises Private Limited confirms the same. The Albela Enterprises Private Limited in their website projected itself as a part of the Hawana Group.

As per the contract, a vessel called Pequod was imported on 11 October 2024. Tikwana OIL and Natural Gas Company paid the customs duty of Rs. 101.68 crores on the understanding that the Duty Drawback ^[1] can be claimed on the re-export of the imported ship. It was agreed that the formalities for getting the refund would be completed by Albela Enterprises Private Limited. The Albela Enterprises Private Limited failed to initiate the process on time and the vessel left Indian territorial waters and did not return. According to Tikwana OIL and Natural Gas Company, Albela Enterprises Private Limited failed to complete the formalities for duty drawback and did not compensate Tikwana OIL and Natural Gas Company for customs duty and other expenses incurred in the amount of Rs. 101.68 crores.

Clause 19 of the contract between Tikwana OIL and Natural Gas Company and ALBELA ENTERPRISES PRIVATE LIMITED provides for the settlement of disputes of the parties through arbitration.

Clause 19 of the agreement is extracted below for quick reference:

In the event of any dispute arising out of or in connection with the Contract in question, , the aggrieved Party may invoke Arbitration by sending a written notice to the other Party.

On 25 January 2024, Tikwana OIL and Natural Gas Company invoked arbitration against Albela Enterprises Private Limited and Hawana Private

Limited and claimed an amount of Rs. 101.68 crores. In its statement of claim, Tikwana OIL and Natural Gas Company set up the case that Albela Enterprises Private Limited and Hawana belonged to the Hawana Group of Companies and since they constitute a single economic entity, the corporate veil should be lifted to compel the non-signatory, Hawana Private Limited, to arbitrate.

Participants have to discuss on the issue of lifting up of the corporate veil and fixing of liability for not initiating the refund process.

^[1] Duty Drawback is a program that allows businesses to get a refund on certain taxes or duties they paid when importing goods, when they export it back.