

THE HIGH COURT OF KERALA**HCKL/5034/2024-A7**Kochi : 682031
Date: 19-07-2024**OFFICIAL MEMORANDUM**

Sub:- Maintainability of Writ Petitions under DRT Act and SARFAESI Act
-reg.

Ref:- (1) Orders dated 10.04.2024 in Civil Appeal No.4845/ 2024 of the Honourable Supreme Court of India
(2) Minutes of the Administrative Committee meeting held on 01.04.2024
(3) High Court O.M No. HCKL/3223/2024-A7(1) dated 20.04.2024

The Honourable Supreme Court, vide orders cited first, has observed that the High Courts have been entertaining petitions arising out of the DRT Act and the SARFAESI Act in spite of availability of an effective alternative remedy and has emphasized that the High Courts should exercise greater caution in entertaining petitions arising out of the DRT Act and SARFAESI Act.

In this regard, as the question of whether a writ petition challenging proceedings passed under the aforesaid acts is maintainable or not can only be determined by the Honourable Judge before whom the matter is listed for admission, the Honourable the Chief Justice vide order dated 03.07.2024 has directed to adopt the procedure contemplated in the matter of noting of defects as to maintainability, decided by the Administrative Committee vide minutes cited second.

Accordingly, the Filing Scrutiny Officers are hereby directed to register such cases initially as unnumbered WP / OP and sent to the Bench as per roster and follow the directions of Court. A copy of the O.M. cited third is enclosed herewith for ready reference.

(By Order)

Signed by

P Krishna Kumar

Date: 19-07-2024 10:28:50

REGISTRAR GENERAL

Encl:- As above.

To:-

The Controlling Officers in charge of Filing Section, High Court.
The Filing Scrutiny Officers, High Court

Copy to:-

The Deputy Director (IT), High Court
All Joint Registrars, High Court

All Deputy Registrars, High Court
The Private Secretary to the Chief Justice, High Court.
The Public Relations Officer, High Court
The Manager (IT), High Court
All Assistant Registrars and the Chief Librarian, High Court
The Private Secretaries to Judges, High Court
The Court Officer to the Chief Justice, High Court
The IT Section, High Court
The Kerala Judicial Academy, Athani
The Confidential Assistant to Registrars and Addl Registrar (General
Administration), High Court.
The ARS, High Court
The File

THE HIGH COURT OF KERALA

HCKL / 3223 / 2024 - A7 (1)

Kochi : 682031
Date: 20-04-2024

OFFICIAL MEMORANDUM

Sub:-Noting of defects as to maintainability or proper nomenclature of the case and noting of vital defects at the time of scrutiny of re-presented files - directions issued - reg

Ref:-Minutes of the Administrative Committee meeting held on 01.04.2024.

As per the minutes cited first, the Administrative Committee as inter alia resolved as follows :-

"The Administrative Committee resolved to continue the existing practice based on various reported decisions i.e., the question regarding maintainability or proper nomenclature of the case will be noted by the Filing Scrutiny Officers and then the case will be sent to the Bench without assigning regular number, but with the filing number, if the party or the counsel insists for sending the case to the Bench. The Registry shall, in no case, answer the question of maintainability of a case, which is an essential judicial function."

Further it was resolved as follows :-

"The Registry shall not note the defects in a piecemeal manner. However, if some vital defects were omitted to note at the first instance, the Registry can note them in the file at the time of re-presentation in red ink and then to send the case to the Bench, but after numbering the file."

In this connection direction has been issued to the IT Section to make necessary changes in the e-filing module in consultation with the Controlling Officers in charge of Filing Section so as to enable the Filing Scrutiny Officers to note those omitted defects in red ink, as resolved above.

Accordingly, the Filing Scrutiny Officers, High Court are hereby directed to comply with the directions of the Administrative Committee, without fail.

The Controlling Officers in charge of Filing Scrutiny Officers shall ensure strict compliance of the direction.

(By Order)

P Krishna Kumar
REGISTRAR GENERAL

To:-

The Controlling Officers in charge of Filing Section, High Court.
The Filing Scrutiny Officers, High Court

Copy to :-

The Deputy Director (IT), High Court
All Joint Registrars, High Court
All Deputy Registrars, High Court
The Private Secretary to the Chief Justice, High Court.
The Public Relations Officer, High Court
All Assistant Registrars and the Chief Librarian, High Court
The Private Secretaries to Judges, High Court
The Court Officer to the Chief Justice, High Court
The IT Section, High Court
The Kerala Judicial Academy, Athani
The Confidential Assistant to Registrars and Addl Registrar
(General Administration), High Court.
The ARS, High Court
The File

