

**28<sup>th</sup> ALL INDIA MOOT COURT COMPETITION 2017**  
**FOR THE KERALA LAW ACADEMY TROPHY**

**MOOT PROPOSITION**

**Somani v. Union of India and Anr.**

**With**

**Dharmasthan State Pensioner's Association v. Union of India and Anr.**

Dharmasthan is a State in the Indian Union. White Fort Clinic is a clinic situated in the capital city of Trobay. Janeshwar is a Data Entry Operator in the State civil service. Janeshwar's wife Somani was under Dr Manu Nath's care at White Fort Clinic from June 18, 2016. On November 8, a day after the Prime Minister declared the decision to withdraw Rs 1000 and 500 notes from circulation, Somani underwent tests at the hospital, including sonography, and was told the baby was due around December 7, 2016.

However, in the morning on November 9, Somani went into labour and the baby was delivered in the care of relatives and neighbours. Since the baby, weighing all of 1.6 kg, was born premature and Somani lost a lot of blood during the delivery, the family decided to rush her to Dr Manu Nath. At the hospital, while Dr Nath gave primary care, she refused to admit her because of her husband's inability to pay the entire Rs 6,000 deposit in currency notes. Since the banks and ATMs were shut for the day as the government grappled with the complications of removing old currency notes and replacing them with the new ones, the family requested that they be given time for payment. But Dr Nath did not relent and sent Somani and her baby back.

When the baby's condition worsened on November 10, the family rushed him to Dr Manu Nath. But the infant died even as his mom and dad waited for their turn to see the doctor.

The Leading Newspaper, Dhamasthan Times published a report about the incident. It was reported that when the reporter contacted Dr Nath, she admitted that the primary reason to refuse admission to Somani and her baby was the family's inability to pay the full deposit. She, however, also added that the baby required Neonatal Intensive Care Unit (NICU) care

and since her Clinic did not have the facility, she suggested that the family should move the mother and the infant to Greater Trobay hospital. She said "I carried out the primary checkups and the necessary intervention. But she could not pay for the treatment with valid currency, so how could I admit her?". Somani confirmed the statement of Dr Nath and said that "though my husband went to the bank on 9th they allowed to withdraw only Rs 3000 and asked to come in the next day."

On 30-11-2016 Somani filed a writ petition under Article 32 of the Constitution containing the prayer that the Court may order the central Government to pay Rs 10,00,000 as palliative to her for the gross violation of her fundamental right. On 1-12-2016 another writ petition was filed under Article 32 by the Dharmasthan State Pensioner's Association pointing out newspaper reports regarding the death of the persons standing in the queue of banks and requesting the Court to declare that the decision on 7-11-2016 of the Government to demonetise the currency notes of Rs 1000 and Rs500 and the Orders issued by the Reserve Bank of India in this regard are illegal and unconstitutional.

The Supreme Court decided to hear both the petitions together. On behalf of the Union of India and Reserve bank of India all the contentions are refuted. It is further contented that the government policy to demonetise the currency notes of Rs 1000 and Rs 500 is a political question which is not subject to judicial review. The case is posted for final hearing.