IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

OP(C).No. 191 of 2015 (O)

(O.S.No.6/2006 OF SUB COURT, KATTAPPANA)

PETITIONER/JUDGMENT DEBTOR:

P.SELVAKUMAR, AGED 40 YEARS,
S/O.PALSWAMI, SULTHANIA ESTATE, SULTHANIA,
AYYAPPANCOIL VILLAGE, UDUMBANCHOLA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.C.K.PAVITHRAN

RESPONDENT/DECREE HOLDER:

UNION BANK OF INDIA,
AYYAPPANCOIL BRANCH, REPRESENTED BY ITS MANAGER,
UNION BANK OF INDIA, AYYAPPANCOIL BRANCH,
UDUMBANCHOLA TALUK, IDUKKI DISTRICT-685 554.

BY SRI.A.S.P.KURUP, SC, UBI

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(C).No. 191 of 2015 (O)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: TRUE COPY OF DEBT RELIEF SCHEME 2008.

EXHIBIT P2: TRUE COPY OF THE EXECUTION PETITION DATED 28.5.2008.

EXHIBIT P3: TRUE COPY OF STATEMENT DATED 22.10.2010.

EXHIBIT P4: TRUE COPY OF STATEMENT DATED 4.6.2011.

EXHIBIT P5: TRUE COPY OF JUDGMENT DATED 3.9.2012 IN OP(C)2089/2011

EXHIBIT P6: TRUE COPY OF ORDER DATED 6.12.2012 IN R.P.NO.1098/2012.

EXHIBIT P7: TRUE COPY OF REPRESENTATION DATED 20.12.2012.

EXHIBIT P8: TRUE COPY OF THE ORDER DATED 28.8.2014 IN E.P.31/2008.

EXHIBIT P9: TRUE COPY OF THE ORDER DATED 27.9.2014 IN E.P.31/2008.

EXHIBIT P10: TRUE COPY OF JUDGMENT DATED 6.11.2014 IN O.P.(C)NO.2560/2014.

EXHIBIT P11: TRUE COPY OF THE ORDER DATED 17.12.2014 ISSUED BY THE BRANCH MANAGER TO THE PETITIONER.

EXHIBIT P12: TRUE COPY OF LETTER DATED 7.1.2013 ISSUED BY THE BRANCH MANAGER TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A. to Judge.

smp

P.BHAVADASAN, J.

Original Petition (Civil) No.191 OF 2015

Dated this the 11th day of February, 2015.

J U D G M E N T

The grievance in this original petition is regarding dismissal of a representation said to have been made by the petitioner in pursuance to the order of this Court dated 06.11.2014.

2. The petitioner claims to be a small farmer and he availed a loan from Union Bank of India. On default, Bank instituted proceedings and obtained a decree for the amount due to the Bank. Subsequent to the decree, it is claimed by the petitioner that the Central Government brought out a scheme under the name and style 'Agricultural Debt Waiver and Debt Relief Scheme 2008'. The petitioner says that he is entitled to the benefit of the scheme and the entire amount of loan is liable to be waived.

3. Bank took up execution proceedings. In the execution proceedings as it now stands, there is no objection from the petitioner that in view of the scheme he is not liable to pay any amount. However, he approached this Court against the order

passed by the execution court and claimed benefit under the scheme and this Court initially in O.P (C) No.2089/2011, which was disposed of by order dated 03.09.2012, directed the execution court to proceed. A review was filed as Review Petition No.1098/2012 in which this Court permitted the petitioner to make a representation to the Branch Manager claiming the benefit of Agricultural Debt Waiver and Debt Relief Scheme, 2008 within a period of 20 days and that representation had to be referred to Grievance Redressal Officer for the purpose of scrutiny in terms of the judgment dated 23.11.2012 in W.P.(C) No.23812/2012. This Court in the opening sentence of the order made it clear that the order in review was being passed without being influenced by the order dated 03.09.2012. In pursuance thereto, petitioner filed a representation before the Branch Manager and as per the terms of the order it has to be referred to the Grievance Redressal Officer. But instead of referring the representation to Grievance Redressal Officer, Brach Manager issued Ext.P11 letter which is challenged before this Court. Subsequently, the Bank produced an order dated 24.01.2015 where the matter was referred to Grievance Redressal Officer and that officer confirmed the order passed by the Manager. The petitioner relying on the scheme pointed out that he falls under the various schemes and therefore he is entitled to waive his loan. This is a matter to be adjudicated by proper forum.

4. One may recall here that the above contention was not taken before the execution court. In the light of the claim made by the petitioner that his entire liability is to be waived, it is only proper that he may approach the execution court and that court may dispose of the matter.

This original petition is disposed of enabling the petitioner to take objection to the executability of the order on the ground that as per the scheme made mention of above, he is entitled to the benefit of the scheme and if such an objection is taken, it shall be considered in accordance with law.

P.BHAVADASAN
JUDGE

smp