

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 395 of 2008 (V)

PETITIONER(S) :

**ABDUL GAFOOR, AGED 46 YEARS,
S/O. PUTHIYAVEETIL MUHAMMED, OLLUKARA PANCHAYATH,
KALATHODE DESOM, OLLUKARA VILLAGE, THRISSUR TALUK.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S) :

- 1. THE KERALA STATE FINANCIAL ENTERPRISES LTD.,
NEAR TOWN HALL, CHEMBUKAVU, THRISSUR,
REP. BY ITS BRANCH MANAGER.**
- 2. THOUFEEQ, AGED 31 YEARS, S/O.PARAMBIL SYDU,
KALATHODE DESOM, OLLUKARA VILLAGE, THRISSUR TALUK.**
- 3. THE DEPUTY TAHSILDAR (R.R.),
OFFICE OF THE DEPUTY TAHSILDAR, K.S.F.E., THRISSUR.**

**R1 & R3 BY SRI. BABU VARGHESE (SENIOR ADVOCATE)
ADV. SRI.JOHNSON T.JOHN, S.C
R2 BY ADVS. SRI.T.H.ABDUL AZEEZ
SRI.M.AHAMED KUNJU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

WP(C).No. 395 of 2008 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE AGREEMENT FOR SALE EXECUTED BETWEEN
THE PETITIONER AND THE SECOND RESPONDENT DATED 01.01.1997.**

**EXHIBIT P2: A TRUE COPY OF THE PLAINT IN O.S.NO.818/02 ON THE FILE OF
THE SUB COURT, THRISSUR DATED 05.10.2002.**

**EXHIBIT P3: A TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE FIRST
RESPONDENT HEREIN IN EXT.P2 SUIT DATED 03.01.2003.**

**EXHIBIT P4: A TRUE COPY OF THE RECOVERY NOTICE ISSUED BY THE THIRD
RESPONDENT DATED 25.02.2003.**

**EXHIBIT P5 SERIES: TRUE COPIES OF THE RECEIPTS ISSUED TO THE PETITIONER
ON VARIOUS DATES BY THE THIRD RESPONDENT.**

**EXHIBIT P6: A TRUE COPY OF THE DECISION TAKEN BY THE DISTRICT
CO-OPERATIVE BANK, THRISSUR ON 23.09.1999.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.395 of 2008 (V)

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Dated this the 28th day of January, 2015

JUDGMENT

The petitioner, who had entered into an agreement for sale with the 2nd respondent, approached this Court through the present writ petition, when it was understood that the first respondent was taking steps to sell the property, which was covered by the agreement for sale.

2. The facts would disclose that the 2nd respondent had mortgaged the said property in favour of the 1st respondent, in consideration for a loan that was availed from the 1st respondent. The petitioner had filed O.S.No.818 of 2002 before the Sub Court, Thrissur, seeking specific performance of the agreement for sale entered into between the petitioner and the 2nd respondent. It was during the pendency of the said suit, and at a stage when the 1st respondent was proposing to sell the property in question, that the petitioner approached this Court seeking a stay of further proceedings for sale of the property by the 1st respondent. By an interim order dated 07.01.2008, the 3rd respondent, who was acting on behalf of the 1st respondent, was restrained from proceeding with the sale of the property, on condition that the petitioner paid an amount of Rs.2,00,000/- to the 1st respondent.

3. When the matter was called up today, it is reported by counsel for the 1st respondent that, the 2nd respondent has since paid the entire amount outstanding towards the 1st respondent and the 1st respondent has returned the documents of title, in respect of the property, to the 2nd respondent on 13.06.2011. It is apparent, therefore, that the dispute between the 1st and 2nd respondents no longer survives and the recovery steps initiated by the 3rd respondent against the said property need not continue.

Taking note of the said submission made on behalf of the 1st respondent, and leaving it open to the petitioner to pursue O.S.No.818 of 2002, which is stated to be pending before the Sub Court, Thrissur, the present writ petition is closed by recording the submission made by the counsel for the 1st respondent that, the 1st respondent does not have any further rights over the property in question.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/29/01/