

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE SMT. JUSTICE P.VASHA

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WA.No. 735 of 2015 () IN WP(C).9290/2015

AGAINST THE JUDGMENT IN WP(C) 9290/2015 of HIGH COURT OF KERALA
DATED 24-03-2015

APPELLANT/PETITIONER :

V.SURESH KUMAR AGED 50 YEARS
S/O.VELU PILLAI, T.C.-41/362,
PNRA - 5, SIVAGANGA, KURIYATHI,
MANACAUD P.O, THIRUVANANTHAPURAM - 695 002

BY ADVS.SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.
SRI.GOVIND PADMANAABHAN
SRI.AJIT G.ANJARLEKAR

RESPONDENTS/RESPONDENTS :

1. TAMILNAD MERCANTILE BANK LTD.
REPRESENTED BY ITS AUTHORISED OFFICER, THIRUVANANTHAPURAM
REGION, T.C.-39/1276, FIRST FLOOR,
SP BHAGYA TOWERS, ATTAKULANGARA, KILLIPALAM BYE PASS ROAD,
THIRUVANANTHAPURAM - 695 036
2. THE AUTHORISED OFFICER, THIRUVANANTHAPURAM REGION,
TAMILNAD MERCANTILE BANK LTD, T.C.- 39/1276, FIRST FLOOR,
SP BHAGYA TOWERS, ATTAKULANGARA, KILLIPALAM BYE PASS ROAD,
THIRUVANANTHAPURAM - 695 036
3. THE MANAGER, TAMILNAD MERCANTILE BANK LTD.
THIRUVANANTHAPURAM BRANCH, T.C.- 39/1276, FIRST FLOOR,
SP BHAGYA TOWERS, ATTAKULANGARA, KILLIPALAM BYE PASS ROAD,
THIRUVANANTHAPURAM - 695 036

R BY ADV. SRI.V.V.SURENDRAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA.No. 735 of 2015 () IN WP(C).9290/2015

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE TENDER CUM AUCTION SALE NOTICE DATED 24.09.2014 ISSUED BY THE SECOND RESPONDENT

EXT.P2 : COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C). NO.28132/2014

EXT.P3 : COPY OF THE TENDER CUM AUCTION SALE NOTICE DATED 19.2.2015 ISSUED BY THE SECOND RESPONDENT

RESPONDENTS' EXHIBITS : NIL

/TRUE COPY/

PA TO JUDGE

AV

**K.SURENDRA MOHAN
&
P.V.ASHA, JJ.**

W.A.No.735 of 2015

Dated this the 26th day of March, 2015

J U D G M E N T

K.Surendra Mohan, J.

Adv.Sri.V.V.Surendran appears for the respondents.

2. This appeal is filed against the judgment of the learned Single Judge dated 25.03.2015 in W.P.(C).No.9290 of 2015 declining jurisdiction under Article 226 of the Constitution.

3. The limited relief sought for by the appellant is a month's time to wipe off the entire liability. The learned counsel for the respondents submits that the sale of the appellant's property is scheduled to be held today. On an earlier occasion when the sale was so scheduled, the appellant had approached this Court and obtained orders postponing the sale. Though this Court had granted a facility of payment in instalments, the amount was not paid. Therefore, the loan account was not regularised. In view of the past conduct of the appellant, it is submitted that, he is not entitled to any further indulgence in the matter.

4. Heard. We find that the appellant had been granted time by this Court earlier in W.P.(C).No.28132 of 2014 to regularise the loan account. But, he had not made use of the said opportunity. Therefore, we do not find anything wrong in the refusal on the part

of the learned Single Judge to exercise discretion in favour of the appellant. However, since the appellant submits that, he would pay off the entire amount within a period of one month, we are inclined to grant him a limited relief.

This writ appeal is, therefore, disposed of permitting the sale to go on as scheduled. However, the sale shall not be confirmed for a period of one month from today. If the appellant pays off the entire amount due to the respondent within the said period of one month, the sale shall not to be confirmed and the loan account of the petitioner shall be closed.

Sd/-

K.SURENDRA MOHAN, JUDGE.

Sd/-

P.V.ASHA, JUDGE.