

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WA.No. 1238 of 2015 () IN WP(C).15555/2015

AGAINST THE JUDGMENT IN WP(C) 15555/2015 DATED 02-06-2015

APPELLANT(S)/RESPONDENTS :-

1. THE CHIEF MANAGER
STATE BANK OF TRAVANCOR, PALA.
2. THE MANAGER
STATE BANK OF TRAVANCORE, MAIN ROAD
PALA BRANCH - 686 575.

BY ADV. SRI.R.S.KALKURA

RESPONDENT(S)/PETITIONER :-

BINEED KARUNAN, AGED 44 YEARS,
S/O LATE KARUNAN, EDAMANAPPATTU HOUSE, MUTHOLY
PULIYANOOR POST, KOTTAUYAM DISTRICT, PIN - 686 573.

BY SRI.JAI GEORGE

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.1238 of 2015

Dated this the 16th day of June 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellants and the learned counsel for the respondent/writ petitioner.

2. This writ appeal has been filed against the judgment dated 2.6.2015 in W.P.(C) No.15555 of 2015, by which, the learned Single Judge has disposed of the writ petition granting three months time to the petitioner to pay the entire liability starting from 15.6.2015.

3. Learned counsel for the appellants submits that the petitioner had earlier come to this Court by filing a writ petition as W.P.(C) No.25233 of 2013, which was disposed of on 17.10.2013 permitting the petitioner to clear the overdue amount in four equal monthly instalments. It was further observed in the said judgment that if any default is committed in complying with the above direction, the bank shall proceed with the coercive steps pursuant to Ext.P2 notice.

4. Learned counsel appearing for the appellants submits that although the petitioner had paid overdue amount as directed

by the judgment dated 17.10.2013, he again committed default and the petitioner was not entitled to file the second writ petition.

5. Learned counsel for the writ petitioner submits that although the petitioner had complied with the direction issued by this Court and cleared the overdue amount, the bank again initiated proceedings under Section 13(2) of the SARFAESI Act, 2002 as per notice issued on 30.1.2015. It is also submitted that the petitioner could not have precluded from filing W.P.(C) No.15555 of 2015 by earlier judgment of this Court dated 17.10.2013.

6. We have considered the submissions made by the learned counsel for the parties and perused the records.

7. The learned Single Judge, after considering the facts and circumstances of the case, granted three months time to the petitioner to clear the entire liability starting from 15.6.2015. The learned Single Judge has noted the fact that the petitioner had cleared the overdue amount as per the earlier judgment in W.P.(C) No.25233/2013. The proceedings, which were under challenge in the writ petition giving rise to this writ appeal was pursuant to the notice dated 30.1.2015. Thus, it was wholly unrelated to the earlier judgment of this Court and the submission made by the

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learned counsel for the appellants that the petitioner was precluded from filing the writ petition cannot be accepted.

8. Be that as it may, the learned Single Judge has exercised its discretion in granting three months time to the petitioner to pay the entire liability. We are of the view that no grounds have been made out to interfere with the judgment of the learned Single Judge in this appeal.

Hence, this writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE