

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

WA.No. 1600 of 2015 () IN WP(C).9574/2015

**AGAINST THE ORDER/JUDGMENT IN WP(C) 9574/2015 of HIGH COURT OF KERALA
DATED 17-06-2015**

APPELLANT(S):

**SURYA NARAYANAN AGED 56 YEARS
S/O.LATE SANKARA NARAYANAN, MADATHIPARAMBIL HOUSE
TRIKKANGODE AMSOM, CHOROTTUR DESAM, PALAKKAD DISTRICT.**

BY ADV. SRI.C.K.RAMAKRISHNAN

RESPONDENT(S):

- 1. THE MANAGER, CANARA BANK
SHORANUR KULAPPULLY SSI BRANCH, SHORANUR
PALAKKAD DISTRICT, PIN-**
- 2. THE VILLAGE OFFICER
VANIYAMKULAM VILLAGE 2, OTTAPPALAM TALUK
PALAKKAD DISTRICT, PIN-673001**

**BY SR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
BY SRI.PAULY MATHEW MURICKEN,SC,CANARA BANK**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 24-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 1600 of 2015

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Dated this, the 24th day of July, 2015

J U D G M E N T

Shaffique, J.

This appeal is filed by the writ petitioner challenging the judgment dated 17/6/2015 in WP(C) No.9574/2015.

2. The writ petition has been filed challenging Ext.P2 demand notice issued under Section 7 of the Kerala Revenue Recovery Act and also a notice issued for attachment of the property. The amount demanded in terms of the Revenue Recovery notice is ₹28,84,000/-. Petitioner submitted that the amount calculated by the Bank was not correct and therefore, it was not open for the Bank to have initiated the revenue recovery proceedings. It is also submitted that certain amounts paid by the petitioner had not been taken into account while initiating revenue recovery proceedings.

3. Learned Single Judge stayed further proceedings as per interim order dated 25/3/2015, directing the petitioner to pay an

amount of ₹5 lakhs as a condition for stay on or before 30/4/2015. The said amount was not paid. Thereafter, when the matter came up for hearing, learned Single Judge on account of the disputes raised by the petitioner, deferred all coercive steps against the petitioner for a period of one month and permitted the petitioner to avail alternate remedies.

4. It is submitted by the learned counsel for the appellant/writ petitioner that Ext.P2 notice contains amounts which are not actually payable. It is stated that interest and penal interest had been levied which is illegal. Further, it is submitted that the Bank had no authority to initiate revenue recovery proceedings.

5. Learned counsel appearing for the Bank however would submit that being a priority sector loan, which comes below the threshold limit, Bank is entitled to initiate revenue recovery proceedings.

6. Since the petitioner has raised a dispute regarding the liability to pay and the amount demanded, the petitioner will have to approach the competent authorities and such issues cannot be decided under Article 226 of the Constitution of India.

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Under such circumstances, we do not think that the learned Single Judge had committed any error in relegating the petitioner to approach the Civil Court. Hence, we do not intend to interfere with the judgment of the learned Single Judge. Accordingly, this writ appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge