

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WP(C).No. 805 of 2015 (A)

PETITIONER(S) :

**PRAKASH G.NAIR, AGED 35 YEARS,
S/O.GOPALAN NAIR, MULLUVENGAPPURATH (HOUSE),
MALLIKASSERRY P.O., AMBALAVAYAL,
KOTTAYAM DISTRICT-686 577.**

**BY ADVS.SRI.PRAVEEN K. JOY
SRI.NIXON PAUL**

RESPONDENT(S) :

- 1. UNION OF INDIA,
REP. SECRETARY, MINISTRY OF BANKING & FINANCE,
PARLIAMENT, NEW DELHI-1.**
- 2. THE ASSISTANT GENERAL MANAGER,
DHANALAKSHMI BANK, GRIEVANCE REDRESSAL COMMITTEE,
CORPORATE OFFICE, HEAD OFFICE, THRISSUR.**
- 3. THE AUTHORISED OFFICER,
DHANALAKSHMI BANK LTD, COTTON HILL, VAZHUTHAKADU,
TRIVANDRUM-695 010.**
- 4. THE BRANCH MANAGER,
DHANALAKSHMI BANK LTD, AYARKUNNAM BRANCH,
KOTTAYAM DISTRICT.**
- 5. MATHEW THOMAS,
S/O.THOMAS, M/S.THIRUNILATHIL RUBBER TRADERS,
THIRUNILATHIL HOUSE, PADUVA P.O., AYARKUNNAM,
KOTTAYAM-686 564.**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 TO R4 BY ADV. SRI.C.K.KARUNAKARAN, S.C**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 805 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE PHOTOCOPY OF THE LEASE DEED DATED 15/02/2013.**
- EXT.P2: TRUE PHOTOCOPY OF THE LEASE AGREEMENT DATED 04/10/2014.**
- EXT.P3: TRUE PHOTOCOPY OF THE 13(2) NOTICE DATED 03/12/2014.**
- EXT.P4: TRUE PHOTOCOPY OF THE REPRESENTATION DATED 29/12/2014
BEFORE THE 2ND RESPONDENT.**
- EXT.P5: TRUE PHOTOCOPY OF THE OBJECTION TO THE RESPONDENT BANK
DATED 29/12/2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K. JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 805 of 2015

Dated this the 9th day of January, 2015.

JUDGMENT

The petitioner in the writ petition is neither the borrower nor the guarantor to the loan transaction. The petitioner claims to be a lessee residing in the property that has been offered as security by the borrower to the respondent bank. In the writ petition, the apprehension expressed by the petitioner is with regard to dispossession. The facts in the writ petition reveal, however, that only a Section 13(2) notice has been issued by the respondent bank to the borrower, and no steps have been taken by the bank in terms of Section 13(4) of the SARFAESI Act. In that view of the matter, there cannot be any basis for an apprehension on the part of the petitioner, as regards dispossession from the property that he is currently occupying. As and when any notice in terms of Section 13(4) is published by the respondent bank, it will be open to the petitioner to approach the appropriate forum in terms of the judgment of the Supreme Court in **Harshad Govardhan Sondagar Vs. International Assets Reconstruction Company Ltd (2014 (3) KLT 357)**.

Thus, without prejudice to the rights of the petitioner to move

the appropriate forum at the appropriate stage, this writ petition is dismissed as premature.

Sd/-
A.K. JAYASANKARAN NAMBIAR
JUDGE

Scl.