

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 2052 of 2015 (F)

PETITIONER :

**SHINE.K.T., AGED 48 YEARS,
S/O.THANKAPPAN (LATE), KAKKATHARA HOUSE,
31/1986 B KHADER ROAD, KUTHAPPADY, THAMMANAM,
ERNAKULAM DISTRICT.**

**BY DR.K.P.SATHEESAN,SENIOR ADVOCATE
ADVS. SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
COLLECTORATE, ERNAKULAM - 682 011.**
- 2. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM DISTRICT-682 312.**
- 3. THE DEPUTY TAHSILDAR (RR),
KANAYANNUR TALUK, ERNAKULAM DISTRICT -682 312.**
- 4. THE VILLAGE OFFICER,
POONITHURA VILLAGE, ERNAKULAM DISTRICT-682 038.**
- 5. THE STATE BANK OF TRAVANCORE,
PALARIVATTOM BRANCH, P.B.NO.2298,
PREETHI BUILDINGS, PALARIVATTOM-682 025.**
- 6. THE MANAGER,
STATE BANK OF TRAVANCORE, PALARIVATTOM BRANCH,
P.B.NO.2298, PREETHI BUILDINGS,
PALARIVATTOM-682 025.**
- 7. MOHAMMED SIRAJUDEEN C.A.,
CHUNGATHARA HOUSE, CHANDIROOR P.O.,
ALAPPUZHA DISTRICT. NOW HAVING OFFICE AT PROLINE
SYSTEMS THAMMANAM,
ERNAKULAM DISTRICT - 688 537.**

WP(C).NO.2052/2015

**8. IRSHAD ABDULLA,
SEPAL PAPERS THAMMANAM P.O., ANCHUMURI,
ERNAKULAM DISTRICT - 682 032.**

**R1 TO R4 BY GOVERNMENT PLEADER SRI.SUDHEESH KUMAR
R5 & R6 BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
R7 BY ADV. SRI.K.R.VINOD
SMT.M.S.LETHA
R8 BY ADV. SRI.M.A.AUGUSTINE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 2052 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF LOAN ACCOUNT STATEMENT OF THE PETITIONER**
- EXT.P-2: TRUE COPY OF DEMAND NOTICE DATED 20.7.2012**
- EXT.P-3: TRUE COPY OF NOTICE ADDRESSED TO THE 7TH RESPONDENT BUT
ISSUED TO THE PETITIONER'S FIRM ADDRESS DATED 12.7.2012**
- EXT.P-4: TRUE COPY OF DEMAND NOTICE ISSUED FOR ATTACHMENT OF THE
PROPERTY OF THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2052 of 2015

.....
Dated this the 5th day of March, 2015

J U D G M E N T

The petitioner who is a guarantor to a loan advanced by the 5th respondent bank to the 7th respondent, is aggrieved by the proceedings initiated under the Kerala Revenue Recovery Act against him at the instance of the 5th respondent bank for the recovery of the loan amounts. In the writ petition, the grievance of the petitioner is that the revenue recovery recovery proceedings were initiated only against the petitioner who was a guarantor to the loan without any action being taken against the 7th respondent and the 8th respondent who was a co-guarantor.

2. I have heard Dr.K.P.Satheesan, the learned Senior counsel for the petitioner and Sri.Sathish Ninan, the learned Standing counsel for the 5th respondent bank and also Sri.S.Sudheesh Kumar, the learned Government Pleader on behalf of the respondents 1 to 4. In the statement filed on behalf of the 5th respondent bank, it is pointed out that the liability of the principal borrower and guarantor being co-extensive, it is open to the bank to initiate recovery steps against either principal borrower or the

guarantor and the petitioner in his capacity as a guarantor cannot be heard to complain of the action initiated by the respondent bank.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that inasmuch as the petitioner was a guarantor to the loan advanced to the 7th respondent, who subsequently defaulted in repayment of the loan amounts, the action taken by the respondent bank in proceedings initiated against the petitioner in his capacity as a guarantor for recovery of the loan amounts cannot be said to be illegal. The total amount outstanding to the bank, in respect of the loan availed by the 7th respondent, is stated to be Rs.88,262/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.88,262/-, together with accrued interest, in 10 equal successive monthly instalments commencing from 20.03.2015, then further proceedings for recovery of the loan amounts from the petitioner shall be kept in abeyance.

4. I make it clear that if the petitioner defaults in any single instalment, then he will lose the benefit of this judgment, and the recovery steps initiated against him will continue from the stage at

which they presently stand. I further make it clear that, nothing in this judgment shall stand in the way of the authorities under the Revenue Recovery Act, acting upon the requisition of the 5th respondent bank, and taking proceedings against the 7th and 8th respondents in their capacity as principal borrower and co-guarantor, for recovery of the loan amounts. If any steps are taken by the revenue recovery authorities against the 7th and 8th respondent, and said proceedings result in the recovery of amounts from the said respondents, then the amounts recovered from the said respondents shall be reduced from the amounts to be collected from the petitioner in accordance with this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

