

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WP(C).No. 3503 of 2015 (K)

PETITIONER(S):

**SOMAN T.T., AGED 52,
S/O.THANKAPPAN, THUNDIYIL HOUSE,
KUDIYANMALA P.O., KANNUR DISTRICT.**

- 2. BHASKARAN K.V., S/O.RAMAN,
KANDAM VITTA, ANNUR P.O.,
TALIPARAMBA TALUK KANNUR DISTRICT.**
- 3. CHANDRAN T.A., S/O.AYYAPPAN, THENKUNNEL,
VELLAD, VELLAD P.O., KARUVANCHAL, KANNUR DISTRICT.**
- 4. CHANDRAN G., S/O.GOVINDAN,
EDASSERIL, ERUVESY P.O.,
POOPARAMBA, KANNUR DISTRICT.**
- 5. BHASKARAN A.G., S/O.GOVINDAN,
APPANAM KUZHIYIL, MANDALAM P.O.,
KANNUR DISTRICT.**
- 6. SAJU P.K., S/O.KUMARAN,
PUTHEN KANDATHIL, KUDIYANMALA P.O.,
KANNUR DISTRICT.**
- 7. KUNHAMBU P.P., S/O.KORAN,
PUTHIYA PURAYIL, NADUVIL P.O., KANNUR DISTRICT.**

**BY ADVS.SRI.P.NARAYANAN
SRI.NICHOLAS JOSEPH**

RESPONDENT(S):

- 1. THE SPECIAL DEPUTY TAHSILDAR,
REVENUE RECOVERY, TALIPARAMBA TALUK.**
- 2. THE VILLAGE OFFICER,
ERUVESY VILLAGE, TALIPARAMBA TALUK,
KANNUR DISTRICT.**

Msv/

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3. THE VILLAGE OFFICER, ALAKODE VILLAGE,
TALIPARAMBA TALUK, KANNUR DISTRICT.
4. THE VILLAGE OFFICER, VELLUR VILLAGE,
TALIPARAMBA TALUK, KANNUR DISTRICT.
5. THE VILLAGE OFFICER, NEW NADUVIL VILLAGE,
TALIPARAMBA TALUK, KANNUR DISTRICT.
6. KERALA GRAMIN BANK, TALIPARAMBA BRANCH,
TALIPARAMBA P.O., KANNUR DISTRICT,
REP. BY ITS BRANCH MANAGER.

R1-R5 BY GOVERNMENT PLEADER SMT.M.T.SHEEBA
R6 BY ADVS. SRI.DEVAN RAMACHANDRAN, SC
SRI.T.R.RAVI, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07-07-2015, ALONG WITH WPC. 4293/2015, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 3503 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: COPY OF THE MINUTES DTD.11.3.2006 OF M/S SREE NARAYANAN CHARITABLE SOCIETY, TALIPARAMBA.

EXHIBIT P2: COPY OF THE SUMMONS ISSUED IN OA.NO.587/2013 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM.

EXHIBIT P3: COPY OF THE NOTICE NO.(E4). 2015/59/13/100 DTD.24.1.2015 ISSUED BY THE 1ST RESPONDENT U/S 7 OF RR ACT FOR REALIZATION OF RS.27,81,676/- WITH INTEREST.

EXHIBIT P4: COPY OF THE NOTICE NO.(E4). 2015/59/13/100 DTD.24.1.2015 ISSUED BY THE 1ST RESPONDENT U/S 34 OF RR ACT FOR REALIZATION OF RS.27,81,676/- WITH INTEREST.

EXHIBIT P5: COPY OF THE ORIGINAL APPLICATION (WITHOUT DOCUMENTS) IN OA.587/2013 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM.

EXHIBIT P6: COPY OF THE WRITTEN STATEMENT FILED BY THE DEFENDANTS 3 TO 10 THEREIN OA.587/2013 OF DEBT RECOVERY TRIBUNAL ERNAKULAM.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

W.P.(C) Nos.3503 & 4293 of 2015

Dated this the 7th day of July, 2015

JUDGMENT

These writ petitions are filed by the Office Bearers of M/s.Sree Narayana Charitable Society (for short, the "Society"). They approached this Court aggrieved by initiation of the revenue recovery proceedings against them. The petitioners' case is that they have not given any personal guarantee for the loan availed by the Society. Therefore, the Bank cannot initiate revenue recovery proceedings against them to recover the loan advanced to the Society. It is further submitted that the Society and its assets are alone liable to be proceeded under the Revenue Recovery Act.

2. Essentially, the issue is regarding the right of the Bank to proceed against the petitioners' property. If the petitioners had not executed any personal guarantee, necessarily, the Bank cannot proceed against the petitioners. If the petitioners have executed the personal guarantee, the Bank is entitled to proceed against the petitioners.

In that view of the matter, these writ petitions are disposed of with the following directions:

- i. The petitioners shall set out their objection before the District Collector, Kannur within three weeks from the date of receipt of a copy of the judgment.
- ii. Thereafter, the District Collector after verifying the relevant documents and advertent to the objection, take appropriate decision within a further period of two months.
- iii. Needless to say that the petitioners and the Officials of the Bank shall be heard in the matter by the District Collector.
- iv. The further proceedings to proceed under the Revenue Recovery Act, necessarily, would depend upon the outcome of the decision of the District Collector.
- v. All recovery proceedings against the petitioners shall be deferred in tune with the directions as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE