

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 5894 of 2015 (J)

PETITIONER(S):

**ANSAL K.S., AGED 24 YEARS
S/O.LATE SALIM P.S., PEZHUMKATTIL HOUSE
KUTTIMARAM PARAMBU, NADAKKAL PO, ERATTUPETTA
KOTTAYAM DISTRICT**

**BY ADVS.SRI.H.HAMZA ROWTHER
SRI.V.K.PEERMOHAMED KHAN**

RESPONDENT(S):

**AUTHORISED OFFICER, KOTTAYAM DISTRICT CO-OPERATIVE BANK
LTD., HEAD OFFICE BUILDING, KOTTAYAM PIN-686 001**

R BY SRI.SUNIL CYRIAC,SC,DIST.CO-OP BANK,KTM

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1:TRUE COPYOF THE TRUE COPY OF THE DEMAND NOTICE DATED
21.7.2014 ISSUED BY THE RESPONDENT UNDER SECTION 13(2) OF THE
SARFEASI ACT**

**EXHIBIT P2: TRUE COPY OF THE BUILDING TAX RECEIPT ISSUED BY THE
VILLAGE OFFICE,ERATTUPETTA**

**EXHIBIT P3: TRUE COPY OF THE BUILDING TAX RECEIPT ISSUED BY
THEERATTRUPETTA GRAMA PANCHAYATH**

**EXHIBIT P4: TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THGE
PUTHANPALLY MUSLIM JAMA -ATH**

**EXHIBI P5:TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER APPOINTED BY THE CJM COURT**

**EXHIBIT P6:TRUE COPY OF THE RATION CARD INCLUDING THE NAME OF THE
PETITIONER AND FAMILY MEMBERS**

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5894 OF 2015 (J)

Dated this the 24th day of March, 2015

J U D G M E N T

The petitioner, whose late father had borrowed amounts from the respondent bank and defaulted in repayment of the same, is aggrieved by the steps taken by the respondent bank to proceed against the secured asset, without serving any notice on the other legal heirs of his late father, who have inherited a share in the secured asset pursuant to the demise of the father. It is pointed out in the writ petition that the respondent bank, without issuing any notice to the other legal heirs, proceeded to approach the Chief Judicial Magistrate Court, Kottayam, for an order under Section 14 of the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act'.

2. When the writ petition came up for admission, this Court granted an interim order, restraining the respondent bank from proceeding further in the matter. When the matter was taken up

today, it is pointed out by the learned Standing counsel for the respondent bank that the respondent bank will not take further steps in the matter, without complying with the legal formalities under the SARFAESI Act with regard to the other legal heirs of the deceased defaulter, who have obtained an interest in the secured asset. This submission of the learned counsel for the respondent bank is recorded, and the writ petition is closed as infructuous.

The petitioner is directed to submit a copy of the death certificate in respect of his late father, as also the names and addresses of the legal heirs of his late father, to the respondent bank, so as to enable the respondent bank to initiate fresh steps against the legal heirs as well, within a period of two weeks from today.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp