

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 8491 of 2015 (J)

PETITIONER :

**ABDUL RASHEED, AGED 73 YEARS,
S/O.MUHAMMED MUSTAFA, THANNIVILA VEEDU,
KULAMUTTAM.P.O., MANAMBOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.N.SUNIL JOSEPH

RESPONDENT(S):

- 1. UNION BANK OF INDIA, ATTINGAL(PO),
THIRUVANANTHAPURAM DISTRICT,
REPRESENTED BY ITE BRANCH MANAGER,PIN-695 101**
- 2. THE AUTHORIZED OFFICER, UNION BANK OF INDIA,
REGIONAL OFFICE, MG ROAD, THIRUVANANTHAPURAM,PIN-695 001**
- 3. NASEER, AGED 44 YEARS, S/O.ABDUL RASHEED,
THANNIVILA VEEDU, KULAMUTTAM(PO), MANAMBOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT-695 144**

R1 & R2 BY SRI.A.S.P.KURUP, SC, UBI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.8491/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE EXTRACT OF DEED NO.763/1979 OF KAVALAYOOR SRO.**
- P2 COPY OF THE TAX RECEIPT DATED 16/04/2014**
- P3 COPY OF THE EXTRACT OF DEED NO.753/1973 OF KAVALAYOOR SRO**
- P4 COPY OF THE EXTRACT OF DEED NO.506/2010 OD KAVALAYOOR SRO**
- P5 COPY OF THE RELEVANT PORTION OF THE PLAINT IN O.S.NO.14/2015
BEFORE THE HON'BLE MUNSIF COURT AT VARKALA.**
- P6 COPY OF THE NOTICE DATED 05/02/2015 ISSUED BY THE ADVOCATE
COMMISSIONER**
- P7 COPY OF THE OBJECTION DATED 13/3/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....

W.P.(C).No.8491 of 2015

.....

Dated this the 18th day of March, 2015

J U D G M E N T

The petitioner has approached this Court challenging the action of the respondent bank in proceeding against his property for realization of loan amounts from his son. It is the case of the petitioner that the respondent bank can only proceed against the mortgaged property and not against any other property including, in this case, his personal property.

2. I have heard the learned counsel for the petitioner and the learned Standing counsel for the respondent bank. The learned counsel for the respondent bank would submit that the respondent bank does not intend to proceed against the personal property of the petitioner and, since the property of the petitioner is adjacent to the property that has been offered to the respondent bank by way of mortgage, the respondent bank will take steps under the SARFAESI Act to demarcate the property, and proceed only against the mortgaged property.

3. On a consideration of the facts and circumstances of the

case as also the submissions made across the bar, I dispose this writ petition by recording the submission of the learned counsel for the respondent bank that in proceedings initiated under the SARFAESI Act against the petitioner's son, who is the borrower from the respondent bank, the bank will proceed only against property belonging to the petitioner's son, and not against the personal properties of the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

