

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 9662 of 2015 (G)

PETITIONER(S):

**MUHAMMED T.P. AGED 54 YEARS
S/O. MOIDUKUTTY, THEKKE PAINGAL HOUSE, THAZHE ANGADI
PAINKANNUR (PO), MALAPPURAM DISTRICT**

BY ADV. SRI.N.J.JOHNSON

RESPONDENT(S):

- 1. KOTTAKKAL CO-OPERATIVE URBAN BANK LTD.
NO.1378, REPRESENTED BY ITS GENERAL MANAGER
HO: KOTTAPPAQDI, KOTTAKKAL (PO)
MALAPPURAM DT. PIN-676 503**
- 2. THE AUTHORISED OFFICER/ GENERAL MANAGER IN CHARGE,
KOTTAKKAL CO-OPERATIVE URBAN BANK LTD, NO: 1378
HO: KOTTAPPADI, KOTTAKKAL (PO)
MALAPPURAM DT. PIN-676 503**
- 3. KUJBIMUHMAMMED KP
S/O. BEERAN, KRANAGTHU PALLIYALIL HOUSE
OANDIKASALA POST, MALAPPURAM DT. PIN-676121**

R1 BY ADV. SRI.DEVAPRASANTH.P.J, STANDING COUNSEL.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 9662 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE PETITION IN CMP NO.97/2013 ON THE FILE OF
CHIEF JUDICIAL MAGISTRATE COURT AT MANJERI**

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 9662 of 2015

Dated this the 9th day of April, 2015

JUDGMENT

The petitioner, who stood a guarantor to a loan availed by the 3rd respondent from the 1st respondent bank, has approached this Court challenging the proceedings initiated by the respondent bank for recovery of the loan amounts, inter alia, by sale of the secured asset. When the matter came up for admission, this Court by an interim order dated 26.03.2015, granted the petitioner an interim stay against dispossession from the secured asset pending appearance of the respondent bank. The said stay was extended till 26.05.2015 by another order dated 7.04.2015.

2. When the matter came up for orders today, it is pointed out by counsel for the respondent bank, that the 3rd respondent had already approached this Court, challenging the proceedings initiated by the respondent bank earlier for recovery of the same loan amount. It is pointed out that in W.P.(C) 17096 of 2014, that was filed by the 3rd respondent earlier, this Court had granted the 3rd respondent the facility of payment of the entire defaulted amount in ten monthly installments commencing from 10.09.2014. It was also clarified in the said judgment that on the 3rd respondent making two consecutive defaults, the recovery steps initiated

against him would revive and continue. It is the submission of counsel for the respondent bank that the 3rd respondent did not comply with the directions in the said judgment. The petitioner in the present writ petition is the guarantor to the loan availed by the 3rd respondent.

3. Considering the facts that the 3rd respondent had already approached this Court and obtained a judgment, with the directions in which he did not comply, I am of the view that the present writ petition, seeking substantially the same relief, in respect of the same loan account, cannot be maintained at the instance of the petitioner, who is the guarantor to the same loan. The petitioner is not entitled to the discretionary relief of this Court in these proceedings under Article 226 of the Constitution of India. Resultantly, the writ petition fails and is accordingly dismissed as not maintainable.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE