

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(C).No. 9795 of 2015 (Y)

PETITIONERS: -

1. A.R. JAIN, AGED 46 YEARS,
S/O.RAGHAVAN VAIDYAR, RESIDING AT 'ADIYURUTHIL',
NEERIKKODE, NORTH PARAVUR, ERNAKULAM-683511.
2. BENSOM, AGED 39 YEARS,
S/O.SADANANDAN, RESIDING AT 'THINNAKKAKATH',
ELOOR, ERNAKULAM-683501.
3. SADANANDAN, AGED 62 YEARS,
S/O.KESAVAN, RESIDING AT 'THINNAKKAKATH',
ELOOR, ERNAKULAM-683501.
4. K.V.BALAN, AGED 60 YEARS,
S/O.VELAYUDHAN, RESIDING AT 'KUNJUTTIPARAMBIL',
KARUMALLOOR, ERNAKULAM-683511.
5. SUMATHY, AGED 72 YEARS,
W/O.AYYAPPAN, RESIDING AT 'CHERIYAPARAMBIL', PATTANAM,
VADAKKEKARA, NORTH PARAVUR, ERNAKULAM-683522.

BY ADVS.SRI.SAIJU S.
SRI.P.H.RISHAD
SRI.GIREESH PANKAJAKSHAN

RESPONDENTS: -

1. THE PARAVUR - VADAKKEKARA SERVICE CO-OPERATIVE BANK (LTD)
NO.3131, NEENDOOR, VADAKKEKARA,
NORTH PARAVUR, ERNAKULAM-683522.
2. SPECIAL SALE OFFICER,
3131-PARAVUR-VADAKKEKARA SCB GROUP,
O/O THE ASSISTANT REGISTRAR OF CO-OP.SOCIETIES(GENERAL),
NORTH PARAVUR, ERNAKULAM-683522.

R1 BY ADV.SRI.M.M.MONAYE
R1 BY ADV.SRI.M.PAUL VARGHESE
R2 BY GOVERNMENT PLEADER SRI. K.K. SAIDALAVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 9795 of 2015 (Y)

APPENDIX

PETITIONERS' EXHIBITS : -

EXT.P1 : THE TRUE COPIES OF THE RECEIPTS ISSUED BY THE 1ST
RESPONDENT, EVIDENCING REMITTANCES MADE BY THE
PETITIONERS TOWARDS THEIR LOAN ACCOUNTS.

EXT.P2 : THE TRUE COPIES OF THE ORDERS IN PROCEEDINGS
(ARBITRATION CASE No.'S 2998,2999,3000 AND 3006/2014),
CONDUCTED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 9795 of 2015

Dated this the 09th day of December, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned counsel for the first respondent Bank, as well as the learned Government Pleader, apart from perusing the record.

2. Briefly stated, the petitioners availed themselves of a loan (overdraft) from the first respondent Bank in the year 2011. They have committed default in the course of time.

3. Ventilating their grievance that they could not repay the loan amount owing to their stringent financial constraints and that in the meanwhile the respondent Bank has been initiating recovery proceedings against them, the petitioners have filed the present writ petition.

4. The learned counsel for the petitioners has submitted that at no point of time have the petitioners got any intention of evading the loan. On the other hand, the petitioners, according to the learned counsel, are willing to pay the entire amount due, in instalments. He has fairly submitted that though the petitioners could not, as a matter of right, insist on their paying the loan amount in monthly instalments, they have sought the intervention of this Court purely owing to their

financial constraints.

5. The learned counsel for the respondent Bank, having initially opposed the claims and contentions of the petitioners, has eventually consented, based on instructions, that if the petitioners undertake to pay the entire amount outstanding in the loan account in twenty equal monthly instalments, the Bank is willing to accept the same.

6. In the facts and circumstances, as has been mutually agreed on by both the parties, this Court disposes of the writ petition directing the petitioners to repay the outstanding loan amount to the respondent Bank in twenty equal monthly instalments beginning from January 2016.

Needless to observe, if any default is committed by the petitioners in repaying the loan amount as per the repayment schedule mutually agreed on, the respondent Bank is at liberty to proceed further without reference to this judgment. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-