

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 9814 of 2015 (B)

PETITIONER(S):

1. KRISHNAN. A.P. ,
S/O.KORMAN, AGED 42 YEARS,
ANGADI PARAMBIL HOUSE, KALADI P.O.
EDAPPAL, MALAPPURAM DISTRICT.
2. KORMAN,
S/O.THAMI, ANGADI PARAMBIL HOUSE,
KALADI P.O.
EDAPPAL, MALAPPURAM DISTRICT.

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

RESPONDENT(S)/RESPONDENTS:

1. THE SPECIAL DEPUTY TAHSILDAR (REVENUE RECOVERY)
K.S.F.E.LTD., PALAKKAD II BRANCH, P.B.NO. 40
OPPOSITE AROMA THEATRE, PALAKKAD - 678 001.
2. THE BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISES (K.S.F.E.)
EDAPPAL BRANCH, EDAPPAL P.O.
MALAPPURAM DISTRICT - 679 576.

**R1 BY GOVERNMENT PLEADER SRI. SHYSON.P.MANGUZHA
R2 BY ADV. SRI.BABU VARGHESE (SR.)
BY SRI.ALEXANDER.C.V., SC, KERALA STATE FINANCIAL ENTERPRISES**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 9814 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE DEMAND NOTICE DATED 24/05/2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P2: TRUE COPY OF DEMAND NOTICE DATED 08/05/2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF THE RECEIPTS OF PAYMENT ISSUED BY THE 1ST RESPONDENT.

EXT.P4: TRUE COPY OF THE NOTICE DATED 12/06/2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF THE SALE NOTICE DATED 16/02/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 9814 of 2015 (B)

.....
Dated this the 7th day of April, 2015

JUDGMENT

The 1st petitioner, who is a subscriber of a chitty from the 2nd respondent Company, and the 2nd petitioner, who stood as guarantor and created equitable mortgage on their property, defaulted in repayment of the same. Consequently, the respondent Company initiated proceedings under the Kerala Revenue Recovery Act, 1968, against the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Company for recovery of the loan amounts.

2. Heard Sri.K.R.Avinash, learned counsel appearing for the petitioner, Sri.Shyson P.Manguzha, the learned Government Pleader for the 1st respondent and Sri.C.V.Alexander, learned Standing counsel appearing for the 2nd respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I note that the sole prayer of the petitioners is to permit them to remit the total overdue amount to the respondent Company in easy installments. Taking into account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:

- i. The total amount outstanding from the petitioners to the respondent Company is stated to be Rs.2,84,496/- together with accrued interest. Accordingly, if the petitioners remit an amount of Rs.2,84,496/- together with accrued interest in six equal and successive monthly installments commencing from 30.04.2015, then, the recovery steps initiated against them by the respondent Company shall be kept in abeyance.
- ii. It is made clear that, if the petitioners commit a default in respect of any of the installments, they will lose the benefits of this judgment and the respondent Company will be free to continue the recovery proceedings against them from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/04/