

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 10279 of 2015 (H)

PETITIONER(S):

1. **PRADEEP KUMAR G., AGED 45 YEARS,
S/O.LATE K.V.GOPALAN ACHARY, VIJAYAPURATHU VEEDU,
KAVUMBHAGAM P.O., THIRUVALLA.**
2. **MR.ASHWIN PRADEED, S/O.PRADEEP KUMAR G.,
VIJAYAPURATHU VEEDU, KAVUMBHAGAM P.O., THIRUVALLA.**
3. **MR.ASHIK PRADEEP,
S/O.PRADEEPKUMAR .GVIJAYAPURATHU VEEDU,
KAVUMBHAGAM P.O., THIRUVALLA.**
4. **MASTER ARJUN PRADEEP,
S/O.PRADEEPKUMAR .GVIJAYAPURATHU VEEDU,
KAVUMBHAGAM P.O., THIRUVALLA.**

BY ADV. SMT.INDU SUSAN JACOB

RESPONDENT(S):

1. **STATE BANK OF TRAVANCORE,
REPRESENTED BY THE GENERAL MANAGER, HEAD OFFICE,
THIRUVANANTHAPURAM.**
2. **ASSISTANT GENERAL MANAGER, STATE BANK OF TRAVANCORE,
THIRUVALLA MAIN BRANCH, THIRUVALLA.**

BY ADV. SRI.R.S.KALKURA, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 10279 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE VALUATION CERTIFICATE ISSUED BY THE AUTHORIZED VALUATOR.**
- P2- A TRUE COPY OF THE JUDGMENT OF THE ADDL. DISTRICT AND SESSIONS COURT - II, PATHANAMTHITTA, AND OP.(G & W) NO.52/2013.**
- P3- A TRUE COPY OF THE JUDGMENT DATED 29.1.2014 OF THE HONOURABLE HIGH COURT OF KERALA IN M.F.A. (G&W) NO.10/2014.**
- P4- A TRUE COPY OF THE PARTITION DEED NO.330/15 DTD.4.2.2015 OF THIRUVALLA S.R.O.**
- P5- A TRUE COPY OF THE REPRESENTATION DATED 23.3.2015 GIVEN BY THE 1ST PETITIONER TO THE 1ST RESPONDENT.**
- P6- A TRUE COPY OF THE REPRESENTATION DATED 23.3.2015 GIVEN BY THE 1ST PETITIONER TO THE 2ND RESPONDENT**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R.RAMACHANDRA MENON, J.
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W.P.(C) No.10279 of 2015
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Dated this the 8th day of April, 2015

JUDGMENT

The alleged inaction on the part of the respondent Bank in considering the application for loan sought for by the petitioners made them to approach this Court by filing this writ petition. Case of the petitioner is that the 1st petitioner is the managing partner of the firm engaged in the jewellery business as well as in textiles. The petitioners 2 to 4 are the children, who are also partners in the aforesaid business. Among them, 4th petitioner is a minor. The petitioners already availed a loan of nearly 16.5 Crores from the respondent Bank on the strength of security given over an extent of 31 cents of property exclusively belonging to the 1st petitioner. There are some other collateral securities as well. In connection with the further financial requirement, the petitioners approached the Bank for enhancement of the loan facility and also to release a portion of the property by substituting the same by 39 cents, which belongs to the petitioners jointly. It is stated that the maximum interest which could be aspired by the 4th petitioner or allotted to the 4th

petitioner is only 1/6 of the total of 39 cents. When the petitioners approached the Bank, the request made by the petitioners was not favourably considered pointing out that 4th petitioner was a minor and that a court order was necessary so as to finalise the deal. In the course of further steps, the petitioners approached the concerned Family Court by way of O.P(G&W) No.52/2013 of the Additional District and Sessions Court-II, Pathanamthitta, where the registered extent of release was not obtained by virtue of which, they approached this Court by filing M.F.A(G&W) No.10/2014. As per Ext.P3 judgment passed by a Division Bench of this Court on 29.01.2014 the petitioners have been permitted to deal a the portion of the property belonging to the minor, for the better interest of the minor, in the light of the observations made therein. Despite production of copy of the said judgment, the matter was not considered by the Bank and hence, the writ petition.

2. Heard the learned counsel appearing for the Bank as well, who points out that the property concerned herein, which was offered as security, was sought to be earmarked separately, executing a partition deed, copy of which is produced as Ext.P4.

By virtue of the turn of events, it is stated that the petitioners have taken a different turn/ deviation and as such, the partition deed is also surrendered before the Bank executing all the necessary documents. The learned counsel for the Bank submits that, in view of the turn of events leading to execution of Ext.P4, the course sought to be pursued cannot be continued as it was originally intended. It is also stated that execution of Ext.P4 is not in conformity with law in so far as no permission was obtained to have the partition deed executed. The learned counsel points out that, as per Ext.P3, the permission given by this Court is only to create mortgage over the property belonging to the minor and as such, the partition deed executed earmarking a particular portion as the share of the minor is not correct, which could be questioned by the minor in the due course.

3. The learned counsel for the petitioners submits that the petitioners are ready to surrender Ext.P4 partition deed and that all the other partners, i.e., petitioners 1 to 3, will execute all the relevant documents including the letters of indemnity in favour of the Bank so as to proceed with the application for loan. The

petitioners are let to surrender the original of Ext.P4 and such other documents before the Bank along with a letter of indemnity to the satisfaction of the Bank; upon which the application preferred by the petitioner for financial assistance as mentioned herein before will be considered and appropriate steps shall be taken to have the same finalised at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly. The petitioners shall produce a copy of this judgment along with a copy of this writ petition before the respondent /Bank for further steps.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

vdv