

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 11006 of 2015 (A)

PETITIONER(S) :

**M.SHABEER,
S/O.MOHAMMED SALI, PROPRIETOR, MAMKULAM PARK,
NEAR WOMEN'S COLLEGE, VAZHUTHACAUD,
THIRUVANANTHAPURAM.**

BY ADV. SRI.ANIL SIVARAMAN

RESPONDENT(S) :

- 1. THE CHIEF MANAGER,
UNION BANK OF INDIA, UNION BANK BHAVAN,
M.G.ROAD, STATUE, THIRUVANANTHAPURAM- 695 001.**
- 2. THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, MINISTRY OF FINANCE,
DEPARTMENT OF ECONOMIC AFFAIRS, NEW DELHI- 110 001.**

R1 BY ADV. SRI.A.S.P.KURUP, S.C

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 11006 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF SALE NOTICE DATED 05.09.2014.

EXHIBIT P2: TRUE COPY OF REPRESENTATION DATED 14.10.2014.

EXHIBIT P3: TRUE COPY OF JUDGMENT IN W.P.(C).NO.27112/14.

EXHIBIT P4: TRUE COPY OF SALE NOTICE DATED 26.02.2015.

EXHIBIT P5: TRUE COPY OF STATEMENT OF ACCOUNTS.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 11006 of 2015

Dated this the 6th day of April, 2015

JUDGMENT

The petitioner who had availed a loan from the respondent bank and defaulted in repayment of the same, approaches this Court with the present writ petition challenging the steps initiated by the respondent bank for sale of his property for realisation of the loan amount. A perusal of the facts in the writ petition would reveal that the petitioner had on an earlier occasion approached this Court through W.P.(C) No.34438 of 2010, when the respondent bank had initiated proceedings for recovery under the SARFAESI Act. On that occasion this Court had permitted the petitioner to effect payments of Rs.15 lakhs on or before 03.12.2010 and the balance amount outstanding in five equal monthly installments. It is not in dispute that the petitioner was not able to comply with the directions of this Court. It is stated that thereafter, he approached the Debt Recovery Tribunal through SA No.98 of 2012, in which also, despite the fact that there was an interim stay, that was granted to the petitioner, he could not comply with the condition, resulting in the vacating of the stay by the Debt Recovery Tribunal. It is pointed out that a further appeal before the Debt Recovery Appellate Tribunal also did not make the attempt successful. Thereafter, the petitioner once again approached this Court

through W.P.(C).No.27112 of 2014, when this Court was appraised by the respondent bank of the earlier proceedings in the matter at the instance of the petitioner. When confronted with the said statement of the respondent bank the petitioner withdrew the writ petition as evidenced by Ext.P3 judgment. It is thereafter, when the respondent bank initiated proceedings under the SARFAESI Act for recovery of the loan amount that the petitioner sought to approach this Court yet again through the present writ petition.

Considering the conduct of the petitioner in approaching this Court, whenever the respondent bank initiated steps under the SARFAESI Act, and despite the fact that although this Court was granted him the benefit of repayment in installment, he did not comply with the said directions of this Court, I am of the view that the petitioner is not entitled to the discretionary relief of this Court in these proceedings under Article 226 of the Constitution of India. Accordingly, the writ petition fails and it is dismissed as not maintainable at the instance of the petitioner.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE