

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

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

WP(C).No. 11597 of 2015 (Y)

PETITIONER(S):

- 1. M/S.RELIANCE SECURITY AGENCY,
PREM BUILDING, KARUNAGAPPALLY,
KOLLAM DISTRICT, REPRESENTED BY
MANAGING PARTNER T.K.SAMBASIVAN.**
- 2. T.K.SAMBASIVAN,AGED 65 YEARS, S/O.T.V.KUTTAPPAN,
JYOTHI NILAYAM, PRAYAR NORTH.P.O., ALAPPEY DISTRICT.**
- 3. B.SHYLAJA,W/O.T.K.SAMBASIVAN, JYOTHI NILAYAM,
PRAYAR NORTH.P.O., ALAPPEY DISTRICT.**

**BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH**

RESPONDENT(S):

- 1. THE VIJAYA BANK,
REPRESENTED BY ITS REGIONAL MANAGER,
REGIONAL OFFICE, 1ST FLOOR, JOSE ANNEX,
JOSE JUNCTION, M.G.ROAD, ERNAKULAM-682 016**
- 2. THE MANAGER, THE VIJAYA BANK,
KARUNAGAPPALLY BRANCH, KING CITY ARCADE,
KARUNAGAPPALLY, KOLLAM-690 518**
- 3. THE CHIEF MANAGER AND AUTHORISED OFFICER,
VIJAYA BANK, REGIONAL OFFICE, 1ST FLOOR, JOSE ANNEX,
JOSE JUNCTION, M.G.ROAD, ERNAKULAM-682 016.**

BY SMT.LATHA KRISHNAN,SC, VIJAYA BANK

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

sts

WP(C).NO.11597/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF THE SECURITIZATION ACT.**
- P2 COPY OF THE POSSESSION NOTICE DATED 7/10/2014 ISSUED BY THE 3RD RESPONDENT**
- P3 COPY OF THE ORDER DATED 21/10/2014 IN WP(C).NO.26665/2014 OF THIS HONOURABLE COURT**
- P4 COPY OF THE JUDGMENT DATED 12/11/2014 IN WP(C).NO.26665/2014 OF THIS HONOURABLE COURT**
- P5 COPY OF THE COMMUNICATION DATED 25/11/2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE SECRETARY, THAZHAVA PANCHAYAT.**
- P6 COPY OF THE PROCEEDINGS NO.T4-118/15 DATED 20/1/2015 OF THE PRESIDENT, THAZHAVA GRAMA PANCHAYAT.**
- P7 COPY OF THE COMMUNICATION DATED 15/12/2014 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT**
- P8 COPY OF THE COMMUNICATION DATED 01/4/2015 ISSUED BY THE SENIOR BRANCH MANAGER OF THE 1ST RESPONDENT BANK.**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 11597 of 2015

Dated this the 8th day of April, 2015

JUDGMENT

The petitioner, who had availed two loans from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. In the writ petition, the petitioner challenges the steps initiated by the respondent bank for recovery of the loan amounts under the SARFAESI Act. When the matter was taken up for admission, it was noticed that the petitioner had already approached this Court on an earlier occasion when by Ext.P4 judgment, this Court had taken note of the fact that the petitioner had not complied with condition imposed by the Court, at the time of passing an interim order in his favour, and under the said circumstances, the Court thought it fit not to invoke the discretionary jurisdiction under Article 226 of the Constitution of India, in favour of the petitioner. By Ext.P4 judgment therefore, the writ petition filed by the petitioner, on that occasion, was dismissed without prejudice to the rights and liberties of the petitioner to pursue other appropriate remedies, if any, in accordance with law.

In the present writ petition, the petitioner once again seeks the indulgence of this Court under Article 226 of the Constitution of India, for obtaining reliefs in the matter of repayment of the amounts to the respondent bank. In view of the fact that the petitioner did not comply with the directions of this Court, leading therefore, to the dismissal of his earlier writ petition through Ext.P4 judgment, I am of the view that the petitioner is not entitled to the discretionary relief of this Court under Article 226 of the Constitution of India. Resultantly, the writ petition fails and is accordingly dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE