

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 13405 of 2015 (A)

PETITIONER(S):

**JAYANTHKUMAR VITTAL DASVED, AGED 60 YEARS,
PROPRIETOR, PRADESH AGENCIES, CC8/1329,
SREELAKSHMI, MATTANCHERY, KOCHI-2.**

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT(S):

**1. MATTANCHERY SARVAJENIK CO-OPERATIVE BANK LTD. NO.3284,
REPRESENTED BY THE SECRETARY,
HEAD OFFICE: POST BAG NO 142 CHERLAI, KOCHI 682 002.**

**2. THE BRANCH MANAGER,
MATTANCHERY SARVAJENIK CO-OPERATIVE BANK LTD,
NO 3284, CHERLAI, KOCHI 682 002.**

BY ADV. SRI.T.A.RAJAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHBIIT P1 TRUE COPY OF THE NOTICE DATED 19/12/2014 ISSUED BY THE FIRST RESPONDENT BANK**
- EXHBITI P2 TRUE COPY OF THE REPLY DATED 12/2/2015 SUBMITTED BY THE PETITIONER THROUGH HIS COUNSEL**
- EXHBITI P3 TRUE COPY OF THE REPLY NOTICE DATED 25/2/2015**
- EXHBIIT P4 TRUE COPY OF THE NOTICE DATED 16/2/2015 ISSUED BY THE BANK**
- EXHBITI P5 TRUE COPY OF THE NOTICE DATED 25/2/2015**
- EXHBITI P6 TRUE COPY OF THE NOTICE DATED 7/10/2014 ISSUED BY THE BANK**
- EXHBIIT P7 TRUE COPY OF THE JUDGMENT DATED 24/2/2006 IN O.S NO 32/04 BEFORE THE SUB COURT,KOCHI**
- EXHIBIT P8 TRUE COPY OF THE JUDGMENT DATED 26/11/2008 IN A.S 281/2006 BEFORE THE DISTRICT COURT.KOCHI**
- EXHBITI P9 TRUE COPY OF THE NOTICE DATED 21/4;/2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 13405 of 2015

Dated this the 18th day of August, 2015

JUDGMENT

The petitioner has approached this Court challenging SARFAESI proceedings. The case of the petitioner is that the Bank cannot proceed under SARFAESI Act, as the award obtained by them from the Registrar is null and void and therefore, the Bank cannot proceed under the SARFAESI proceedings based on the award passed. Further, it is stated that the said loan account has been classified as non-performing assets on 27.08.1998 and therefore based on the above, the Bank cannot now proceed with the SARFAESI proceedings.

2. If the petitioner has any substantial challenge against SARFAESI proceedings, the petitioner is free to do so before the Debts Recovery Tribunal, this Court cannot entertain such a plea especially when the petitioner has alternate remedy.

3. However, in this matter, a counter affidavit has been filed by the respondent-Bank. It is stated that the total liability of the petitioner is more than Rs.1,06,97,326/- as on

19.12.2014. It is further stated that though 'Ashwas 2015' Scheme is not available, the Bank has considered the petitioner's liability in terms of 'Ashwas Scheme' and reduced the liability to 13,64,230/-, if the same is paid within one month.

4. In such circumstances, if the petitioner wants to settle the liability as offered by the Bank, he is free to do so within a period of six weeks from today. If the petitioner fails to pay the amount within six weeks as above, the Bank is free to proceed against the property of the petitioner in accordance with law.

The writ petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

bpr