

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 14270 of 2015 (G)

PETITIONERS : -

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1. RAHUL, AGED 25 YEARS,
S/O LATE RAMACHANDRAN, THUPPINIKKATTIL HOUSE,
PUTHUR VILLAGE, THRISSUR TALUK.
 2. RANDHEER. AGED 23 YEARS,
S/O LATE RAMACHANDRAN, THUPPINIKKATTIL HOUSE,
PUTHUR VILLAGE, THRISSUR TALUK.
 3. REBIN, AGED 20 YEARS,
S/O LATE RAMACHANDRAN, THUPPINIKKATTIL HOUSE,
PUTHUR VILLAGE, THRISSUR TALUK.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA

RESPONDENTS : -

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1. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES ,
THRISSUR 680 001.
 2. THE SALE OFFICER/ ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), THRISSUR CIRCLE, AYYANTHOLE P.O.,
THRISSUR DISTRICT 680 003.
 3. PUTHUR SERVICE CO-OPERATIVE BANK LTD NO 345, PUTHUR,
THRISSUR DISTRICT - 680 014, REPRESENTED BY ITS SECRETARY.
 4. THE SECRETARY, PUTHUR SERVICE CO-OPERATIVE BANK LTD NO 345,
PUTHUR, THRISSUR DISTRICT 680 014.
 5. VANAJA RAMACHANDRAN, W/O LATE RAMACHANDRAN,
THUPPINIKKATTIL, PUTHUR VILLAGE, THRISSUR TALUK – 680 014.
 6. AJITH KUMAR, S/O VIJAYAN,
MATTATHIL HOUSE, PUTHUR VILLAGE, THRISSUR DISTRICT 680 014.

R3 BY ADV.SRI.P.N.MOHANAN
BY Sr. GOVERNMENT PLEADER SRI. T.R. RAJESH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF SETTLEMENT DEED NO.6675/94 OF SRO,
KUTTANELLUR DATED 17.11.1994.

EXHIBIT P2 : TRUE COPY OF DEED NO.6676/1994 OF SRO, KUTTANELLUR DATED
17.11.1994.

EXHIBIT P3 : TRUE COPY OF DEMAND NOTICE DATED 30.12.14 IN EP NO.508/13
IN ARC NO.430/10 ISSUED BY 2ND RESPONDENT.

EXHIBIT P4 : TRUE COPY OF DEMAND NOTICE DATED 30.12.14 IN EP NO.509/13
IN ARC NO.431/10 ISSUED BY 2ND RESPONDENT.

EXHIBIT P5 : TRUE COPY OF DEMAND NOTICE DATED 30.12.14 IN EP NO.510/13
IN ARC NO.432/10 ISSUED BY 2ND RESPONDENT.

EXHIBIT P6 : TRUE COPY OF ARC NO.346/15 FILED BY PETITIONER BEFORE THE
1ST RESPONDENT.

EXHIBIT P7 : TRUE COPY OF RECEIPT DATED 6.2.2015 ISSUED BY 2ND
RESPONDENT.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 14270 of 2015

Dated this the 28th day of May, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for the respondents, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners' father is said to have obtained three loans of one lakh each from the third respondent by mortgaging the petitioners' property when they were minors, while respondents 5 and 6 stood as surety for the said loans. Incidentally, the fifth respondent is the mother of the petitioners. When the petitioners' father committed default, the third respondent Bank initiated recovery proceedings in ARC No. 430/10 and later laid execution in EP No. 508/13.

3. When the second respondent issued Exhibits P3 to

P5 demand notices and sought to proceed further by bringing what is said to be the petitioners' property, they filed Exhibit P6 and other complaints numbered as 346, 347 and 348/15, as could be seen from Exhibit P7 receipt, by invoking Section 69 of the Kerala Co-operative Societies Act. Ventilating their grievance that the first respondent has so far not considered those objections, the petitioners have filed the present writ petition.

4. The singular contention of the learned counsel for the petitioners is that unless the first respondent expeditiously considers Exhibit P6 and other objections of the petitioners, there is every likelihood that their property would be brought for sale in execution proceedings concerning the loan with which they have nothing to do, and that they would be put to extreme hardship.

5. Be that as it may, this Court does not intend to advert to the merits of the matter, much less adjudicate upon it. Since Exhibit P6 and other complaints are said to have been pending before the first respondent, it is appropriate to dispose of the writ petition with a direction to the said authority to consider them expeditiously

uninfluenced by observations, if any, in the present writ petition.

6. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioners and the learned Government Pleader for the respondents, this Court, without advertting to the merits of the matter, disposes of the present writ petition with a direction to the first respondent to consider Exhibit P6 and other objections of the petitioners in accordance with law, and pass appropriate orders thereon, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. Since an interim order was granted on 12.05.2015 by this Court staying the sale of the property, it is only fit to continue the said stay against the sale of the property till the first respondent disposes of Exhibit P6 and other complaints.

With the above observations, this writ petition is disposed of. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-