

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 17411 of 2015 (B)

PETITIONER:

R.SHAJI,
S/O.LATE C.K.RAGHAVAN, KOTTAKKAZHIKOM, NEDUNGANDA P.O.,
VARKALA, THIRUVANANTHAPURAM-695 307.

BY ADV. SRI.R.ANILKUMAR

RESPONDENTS:

1. KILIMANOOR CO-OPERATIVE AGRICULTURAL DEVELOPMENT BANK LTD.
T.NO.316, KILIMANOOR P.O., THIRUVANANTHAPURAM-695 601
REPRESENTED BY BRANCH MANAGER.
2. SPECIAL SALE OFFICER,
KILIMANOOR CO-OPERATIVE AGRICULTURAL DEVELOPMENT BANK LTD.
T.NO.316, KILIMANOOR P.O., THIRUVANANTHAPURAM-695 601.
3. R.SUCHETHAKUMARI,
D/O.LATE C.K.RAGHAVAN, KOTTAKKAZHIKOM
NEDUNGANADA P.O., THIRUVANANTHAPURAM-695 307.
4. STATE OF KERALA
REPRESENTED BY SECRETARY, CO-OPERATIVE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN 695 001.

R1 & 2 BY ADV. SRI.NAGARAJ NARAYANAN
R1 & 2 BY ADV. SRI.SAIJO HASSAN
R1 & 2 BY ADV. SRI.BENOJ C AUGUSTIN
R1 & 2 BY ADV. SRI.A.G.GIRISH KUMAR
R1 & 2 BY ADV. SRI.VISHNU BHUVANENDRAN
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 17411 of 2015 (B)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT-P1: THE TRUE PHOTOCOPY OF THE DOCUMENT DATED 28.2.1985.

EXHIBIT-P2: THE TRUE PHOTOCOPY OF THE DEMAND NOTICE DATED 5.5.2015 IN
EP 87/15.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 17411 of 2015 (B)

Dated this the 27th day of July, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned Government Pleader and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the first respondent Bank, assailed Ext.P2 demand notice, which was issued by the first respondent for realisation of ₹ 6,15,000/–, being the outstanding loan amount. This Court on 08.06.2015 issued an interim direction staying the proceedings pursuant to Ext.P2 on deposit of ₹25,000/– within one week from that day.

3. The learned counsel for the petitioner has submitted that the petitioner could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought indulgence of this Court for a direction to the respondent Bank to receive the outstanding loan amount in instalments from the petitioner.

4. Before appreciating the submissions of the learned counsel

for the first respondent Bank, it is to be placed on record that expansive as jurisdiction of Article 226 of the Constitution of India may be, I am afraid, it does not go to the extent of interdicting contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the respondent Bank, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in eight monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in eight monthly instalments starting from 01.09.2015.

sd/-DAMA SESHADRI NAIDU, JUDGE.

