

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 19647 of 2015 (E)  
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PETITIONERS:  
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1. N.A.AUGUSTHY, AGED 80 YEARS,  
S/O.AUGUSTINE, NALLAMTHADATHIL, VANCHIMALA.P.O.,  
KOTTAYAM DISTRICT, PIN-686 508.
2. N.A. AUGUSTINE,  
S/O. AUGUSTHY, AGED 41 YEARS,  
NALLAMTHADATHIL, VANCHIMALA P.O.,  
KOTTAYAM DISTRICT, PIN - 686 508.

BY ADVS.SRI.G.HARIHARAN  
SMT.N.C.SALINI

RESPONDENTS:  
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1. M/S. ELAMGULAM SERVICE CO-OPERATIVE BANK LTD.NO.3576,  
KOORALI, KOTTAYAM DISTRICT, PIN-686 522,  
REPRESENTED BY ITS SECRETARY.
2. THE SPECIAL SALE OFFICER,  
THE KANJIRAPPALLY ADB GROUP,  
KANJIRAPPALLY-686 507, KANJIRAPPALLY AGRICULTURAL  
DEVELOPMENT BANK.
3. UNION OF INDIA,  
REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
MINISTRY OF FINANCE, SANSAD MARG, NEW DELHI-110 001.

R3 BY ADV. SMT.H.SUBHALEKSHMI, CGC  
R1 BY ADV. SRI.P.GOPAL  
R1 BY ADV. SRI.B.MURALEEDHARAN  
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL  
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**APPENDIX**

PETITIONER'S EXHIBITS :  
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P1 TRUE COPY OF THE AGRICULTURAL DEBT WAIVER AND DEBT RELIEF'S  
SCHEME INTRODUCED BY THE GOVERNMENT OF INDIA.

P2 TRUE COPY OF THE JUDGMENT MADE IN W.P(C)29623/2012 DATED  
17.12.2014.

P3 TRUE COPY OF THE JUDGMENT MADE IN W.P(C)142/2015 DATED 02.02.2015.

P4 TRUE COPY OF THE NOTICE DATED 04.06.2015 DEMANDING A SUM OF  
RS.1,97,940/-WITH ENGLISH TRANSLATION.

P5 TRUE COPY OF THE NOTICE DATED 04.06.2015 DEMANDING A SUM OF  
RS.4,04,562/-WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS : NIL  
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/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

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W.P.(C). No. 19647 of 2015  
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Dated this the 13<sup>th</sup> day of July, 2015.

JUDGMENT

The petitioners, who have come up before this Court for the second time, have sought in this writ petition the following reliefs:

1. Issue a writ of mandamus or any other appropriate writ or order restraining the respondents 1 and 2 from proceeding against the entire extent of 74.30 Ares of properties of the petitioners for realization of the amount demanded in Exhibits P4 and P5 notices.
2. Issue a writ of mandamus or any other appropriate writ or order commanding the 1<sup>st</sup> and 2<sup>nd</sup> respondents to proceed against that much of property which is sufficient to satisfy the amount demanded by them.
3. Issue a writ of mandamus or any other appropriate writ or order commanding the respondents 1 and 2 to permit the petitioners to clear of the amount demanded in Exts.P4 and P5 acution notices as prescribed in Ext.P2 judgment, and
4. To pass such other orders or reliefs as this Hon'ble Court deems fit in the interest of justice.

2. The learned counsel for the petitioners has submitted that notwithstanding the earlier litigation and notwithstanding the reliefs sought in the writ petition, the petitioners are prepared to clear the entire loan arrears, if instalments are provided.

3. The learned counsel for the respondent Bank has submitted that the petitioners are chronic defaulters. To his credit, he has

further submitted that the respondent Bank is willing to provide one last opportunity to the petitioners to pay off the outstanding debts, lest in terms of Exts.P4 and P5 sale notice, the mortgaged properties should be brought for sale. According to him, the first respondent Bank is willing to provide six instalments. On the persistent request of the learned counsel for the petitioners, eventually the learned counsel for the first respondent has agreed for providing seven instalments, finally.

4. In the facts and circumstances, without going into the merits of the matter, this Court disposes of the writ petition giving an opportunity to the petitioners to pay off the entire arrears in their respective loan accounts in seven instalments beginning from 01.08.2015 as has been agreed. It is further made clear that if the petitioners commit default, the respondent Bank is at liberty to proceed further in terms of Exts.P4 and P5 by fixing a fresh date of sale, without reference to any of the observations in the present disposition, albeit subject to the provisions of law. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

