

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 22678 of 2015 (H)

PETITIONER:

SUBRAHAMANIAN, AGED 65 YEARS,
S/O. SANKU GUPTAN, KALLITHODI, ALANGAD (PO),
PALAKKAD DISTRICT.

BY ADVS.SRI.K.B.ARUNKUMAR
SRI.RANJIT BABU

RESPONDENTS:

1. THE SPECIAL ARBITRATOR CUM SPECIAL SALE OFFICER,
KERALA STATE CO-OPERATIVE HOUSING FEDERATION,
ERANJIPALAM, KOZHIKODE - 673 001.
2. SREEKRISHNAPURAM BLOCK BAHAVANA NIRMANA
CO-OPERATIVE SOCIETY LTD NO. P 814, KACHERIUKUNNU
CHERPULASSERY (PO),PALAKKAD DISTRICT PIN 679 503,
REPRESENTED BY ITS SECRETARY

R2 BY ADV. SMT.SHAMEENA SALAHUDHEEN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 22678 of 2015 (H)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1 THE TRUE COPY OF THE NOTICE DATED 25-06-2015 ISSUED BY THE
1ST RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

EXHIBIT P2 THE TRUE COPY OF THE NOTICE DATED 25-06-2015 ISSUED BY THE
1ST RESPONDENT ALONG WITH ITS ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 22678 of 2015 (H)

Dated this the 8th day of December, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Society, apart from perusing the record.

2. The petitioner, a borrower from the second respondent Society, assailed Exts.P1 and P2 notices directing payment of ₹ 2,23,427- .

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

4. Before appreciating the submissions of the learned counsel for the second respondent Society, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual terms, especially in a financial transaction involving

public money, so as to compel the respondent Society 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 second respondent, to his credit, evidently on instructions, has submitted that the respondent Society is willing to collect the outstanding loan amount in ten monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Society, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in ten equal monthly instalments starting from 01.01.2016. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Society is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

