

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 22838 of 2015 (D)

PETITIONER:

SURESH KUMAR.P.,
S/O.P.K.NARAYANAN, 19/908, PADANNAPURATH HOUSE,
CHALAPPURAM P.O, KOZHIKODE 673 002.

BY ADV. SRI.K.PRAVEEN KUMAR

RESPONDENTS:

1. THE CALICUT TOWN SERVICE CO-OPERATIVE BANK LTD.,
MAIN BRANCH, CALICUT 673 001,
REPRESENTED BY ITS SECRETARY.
2. SPECIAL SALE OFFICER,
THE CALICUT TOWN SERVICE CO-OPRERATIVE BANK GROUP,
ASSISTANT REGISTRAR (GENERAL) OFFICE,
KOZHIKODE 673 004.

R1 BY ADV. SRI.V.V.SURENDRAN
R1 BY ADV. SRI.P.A.HARISH
R2 BY ADV. SMT.VEENA HARI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. COPY OF THE RECOVERY NOTICE DATED 17.11.14 ISSUED BY 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT P2. COPY OF THE ECHOCARDIOGRAPHY REPORT OF THE PETITIONER ISSUED BY MIMS HOSPITAL CALICUT DATED 16.2.15.

EXHIBIT P3. COPY OF THE PRESCRIPTION DATED 9.7.15 ISSUED TO THE PETITIONER FROM MIMS HOSPITAL CALICUT.

EXHIBIT P4. COPY OF THE RECEIPT DATED 6.5.15 FOR RS.20,000 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P4(A). COPY OF THE RECEIPT DATED 30.6.15 FOR RS.5000 ISSUED BY THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 22838 of 2015 (D)

Dated this the 19th day of November, 2015.

JUDGMENT

Heard the learned counsel for the petitioner 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.P1 notice directing payment of ₹ 91,882/- .

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 Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the respondent Bank, 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 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 first respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in seven 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 seven equal monthly instalments starting from 01.12.2015. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

