

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. 23059 of 2015 (F)

PETITIONER:

P.K.SULAIMAN, AGED 45 YEARS,
S/O.P.H.KASIM, PUTHENVEETIL HOUSE, PAINGANA,
MUNDAKAYAM, KOTTAYAM DISTRICT.

BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.

RESPONDENTS:

1. THE SPECIAL SALE OFFICER,
KANJIRAPPALLY, AGRICULTURAL DEVELOPMENT BANK GROUP,
KANJIRAPPALLY, KOTTAYAM DISTRICT.
2. KANJIRAPPALLY AGRICULTURAL DEVELOPMENT BANK GROUP,
KANJIRAPPALLY, KOTTAYAM DISTRICT.

R2 BY ADV. SRI.SUNIL CYRIAC, SC

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

WP(C).No. 23059 of 2015 (F)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS

P1 : TRUE COPY OF THE AUCTION NOTICE DATED 27-6-2015 ISSUED BY THE
1ST RESPONDENT WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

rv

Dated this the 19th day of November, 2015.

JUDGMENT

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

2. The petitioner, having borrowed an agricultural loan from the second respondent Bank, committed default compelling the respondent Bank to initiate steps to recover the loan dues. When the Bank proposed to realise the dues by auctioning the petitioner's mortgaged property, he has filed the writ petition and obtained an interim order on 30.07.2015.

3. This Court suspended the operation of Ext.P1 auction notice, subject to the condition of the petitioner depositing with the respondent Bank one-third of the total outstanding amount within one month. As the record reveals, the petitioner has not complied with the condition.

4. Later on 04.11.2015, as there was no representation for the petitioner, this Court made it clear that in view of the petitioner's failure to comply with the conditional stay granted by this Court, the respondent Bank is at liberty to proceed further.

5. Today, the learned counsel for the petitioner has submitted

that the petitioner has deposited ₹1,00,000/-. The learned counsel for the respondent Bank has, on the other hand, submitted that the total amount due was ₹23,00,000/- and one-third of it comes to about ₹8,00,000/-. In that context, the learned counsel for the petitioner has submitted that further time may be granted to pay the amount.

I may observe that, first the petitioner has failed to comply with the interim direction; second, he has not filed any application seeking extension of time. Under these circumstances, I do not see any merit in the contention of the learned counsel for the petitioner.

In the facts and circumstances, as the issue lies in the realm of contractual obligation between the borrower and the lender, unless the compelling reasons are present, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India. And for that matter, the petitioner has not demonstrated before this Court any such compelling reasons warranting interference by this Court.

As a result, this writ petition is dismissed. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

