

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 23701 of 2015 (K)

PETITIONER : -

M.N BABU, AGED 48 YEARS,
S/O.NARAYANAN, MELETHPARAMBIL HOUSE,
CHITTILAPPILLY DESOM, CHITTILAPPILLY PO.,
CHITTILAPPILLY VILLAGE, THRISSUR TALUK,
THRISSUR DISTRICT.

BY ADVS.SMT.M.R.REENA
SRIP.S.SUJETH

RESPONDENTS :-

1. SPECIAL SALE OFFICER,
KUTTANELLUR SERVICE CO-OP. BANK GROUP,
OFFICE OF THE ASST REGISTRAR OF CO-OP. SOCIETIES (GENERAL),
AYYANTHOLE, THRISSUR, PIN-680 003.
2. THE SECRETARY,
THRISSUR SERVICE CO-OP. BANK NO.R-1097,
THIRUVAMBADY PO, PATTURAIKKAL, THRISSUR TALUK,
THRISSUR DISTRICT, PIN-680 022.

R2 BY ADV.SRI.A.D.RAVINDRA PRASAD
R1 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 23701 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE SALE NOTICE ISSUED BY THE SPECIAL SALE OFFICER DATED 7-7-2015.

EXHIBIT P2 : TRUE COPY OF REPRESENTATION GIVEN TO THE 2ND ' RESPONDENT DATED 15-7-2015.

RESPONDENTS' EXHIBITS : -

EXHIBIT R2(a) : COPY OF THE RELEVANT PAGE OF THE LEDGER SHOWING ALL THE REMITTANCES AND THE BALANCE DUE TO THE 2nd RESPONDENT.

EXHIBIT R2(b) : COPY OF THE AWARD DATED 28.3.2012.

EXHIBIT R2(c) : COPY OF THE LETTER SUBMITTED BY THE PETITIONER DATED 28.3.2012.

EXHIBIT R2(d) : COPY OF THE NOTICE UNDER RULE 74(3) IN FORM No.6 DATED 30.6.2015.

// TRUE COPY //

P.A.TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 23701 of 2015

Dated this the 15th day of October, 2015

JUDGMENT

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

2. Briefly stated, the petitioner availed himself of a loan from the second respondent Bank in the year 2010 by mortgaging, the deposit of title deeds, 4.5 cents comprised in Sy. No.267/11 and Re-Sy. No.76/1 of Chittilappilly Village. He has committed default in the course of time.

3. Ventilating his grievance that he could not repay the loan amount owing to stringent financial constraints faced by him, and that in the meanwhile the respondent Bank has been initiating recovery proceedings against him, the petitioner has filed the present writ petition.

4. The learned counsel for the petitioner has submitted that at no point of time has the petitioner got any intention of evading the loan. On the other hand, the petitioner, according to the learned counsel, is willing to pay the entire amount due, in instalments. He has fairly submitted that though the petitioner could not, as a matter of right, insist on his paying

the loan amount in monthly instalments, he has sought the intervention of this Court purely owing to his financial constraints.

5. The learned counsel for the respondent Bank, having initially opposed the claims and contentions of the petitioner, has eventually consented, based on instructions, that if the petitioner undertakes to pay the entire amount outstanding in the loan account in five equal monthly instalments, the Bank is willing to accept the same.

6. In the facts and circumstances, as has been mutually agreed on by both the parties, this Court disposes of the writ petition directing the petitioner to repay the outstanding loan amount to the respondent Bank in five equal monthly instalments beginning from November 2015.

Needless to observe, if any default is committed by the petitioner in repaying the loan amount as per the repayment schedule mutually agreed on, the respondent Bank is at liberty to proceed further without reference to this judgment. No order as to costs.

DAMA SESHADRI NAIDU
JUDGE

DMR/-