

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

WP(C).No. 24580 of 2015 (V)

PETITIONER :

**K. ANIL KUMAR, AGED 56 YEARS,
S/O.KARUNAKARAN, AMBALAKKARA HOUSE,
PULAMON P.O, KOTTARAKARA, KOLLAM.**

**BY ADVS.SRI.PRAVEEN K. JOY
SRI.TA.JOY**

RESPONDENTS :

- 1. AUTHORISED OFFICER,
THE KOLLAM DISTRICT CO-OP BANK LTD, HEAD OFFICE,
CHINNAKKADA, P.B.NO.130, KOLLAM - 691 001.**
- 2. THE BRANCH MANAGER,
THE KOLLAM DISTRICT CO-OP BANK LTD.,
KOTTARAKKARA BRANCH, KOLLAM 691 001.**
- 3. RECOVERY SUPERINTENDENT
DISTRICT CO-OPERATIVE BANK, HEAD OFFICE,
CHINNAKADA, KOLLAM 691 001.**

R1 TO R3 BY ADV. SRI.T.R.HARIKUMAR, SC,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: THE TRUE PHOTOCOPY OF THE CRL MP 1490/15 OF CHIEF JUDICIAL
MAGISTRATE COURT AT KOLLAM.
- P2: THE TRUE PHOTOCOPY OF THE NOTICE DATED 1.8.2012 OF THE
RESPONDENT BANK.
- P3: THE TRUE PHOTOCOPY OF THE APPLICATION IN SA 661/12 BEFORE THE
HONOURABLE DEBTS RECOVERY TRIBUNAL, ERNAKULAM.
- P4: THE TRUE PHOTOCOPY OF THE NOTICE ISSUED BY ADVOCATE
COMMISSIONER DATED 5.8.15 IN CMP 1490/15 OF CHIEF JUDICIAL
MAGISTRATE COURT, KOLLAM.
- ADDL.P5: COPY OF THE PROCEEDINGS IN SA 661/2012 OF DEBTS RECOVERY
TRIBUNAL, ERNAKULAM.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 24580 of 2015

Dated this the 13th day of August, 2015

JUDGMENT

The petitioner threatened with the dispossession by respondent-Bank pending SARFAESI proceedings has approached this Court. The petitioner's case is that there is an interim order passed in S.A. No. 661/2012 and therefore, the respondent-Bank cannot invoke Section 14(1) before the Chief Judicial Magistrate Court, Kollam.

Considering the facts and circumstances, the following directions are issued :

i) The respondent-Bank shall verify whether any valid order has been passed by the Debts Recovery Tribunal in SA No. 661/2015, if there is an interim order passed by the Debts Recovery Tribunal necessarily, the respondent bank is bound by that order and no steps shall be taken to dispossess the petitioner in violation of that order.

ii) If the proceedings are initiated under Section 14 in violation of the orders of the Debts Recovery Tribunal, the

petitioner is free to bring to the notice of Debts Recovery Tribunal and in that matter, the Bank cannot claim any expenses incurred for the proceedings under Section 14 from the petitioner.

The writ petition is disposed of as above.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE

bpr