

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 24825 of 2015 (C)

PETITIONERS :

1. BIJU MATHEW ABRAHAM, AGED 43 YEARS,
S/O. MATHEW ABRAHAM, NANAVEETIL PUTHENPARAMBIL,
KOZHENCHERI EAST P.O.
2. ANNAMMA MATHEW, W/O. MATHEW ABRAHAM,
NANAVEETIL PUTHENPARAMBIL
KOZHENCHERI EAST P.O.
3. BYJU M.MATHEW
S/O. MATHEW ABRAHAM, NANAVEETIL PUTHENPARAMBIL
KOZHENCHERI EAST P.O.,
4. MATHEW ABRAHAM
S/O. ABRAHAM, NANAVEETIL PUTHENPARAMBIL
KOZHENCHERI EAST P.O.

BY ADV. SMT.INDU SUSAN JACOB

RESPONDENTS :

1. DISTRICT CO-OPERATIVE BANK PATHANAMTHITTA,
THIRUVALLA-KUMBAZHA HIGHWAY, KUMBAZHA, MYLAPRA
PATHANAMTHITTA, PIN-689645
REPRESENTED BY ITS BRANCH MANAGER.
2. AUTHORISED OFFICER,
DISTRICT CO-OPERATIVE BANK PATHANAMTHITTA,
THIRUVALLA-KUMBAZHA HIGHWAY, KUMBAZHA, MYLAPRA
PATHANAMTHITTA, PIN-689645

R1 & R2 BY ADV. SRI.V.PHILIP MATHEW

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 24825 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE ORDER DATED 20-01-2014 IN I.A.NO. 82/2014 IN
SECURITISATION APPLICATION NO. 24/2014.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 24825 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

The challenge in the writ petition is against Ext.P1 order of the Debt Recovery Tribunal, in IA No.82 of 2014 in SA No.24 of 2010, that is pending before the Debt Recovery Tribunal. By the said order, the petitioner has been directed to effect a payment of Rs.15,00,000/- in three installments and also to continue to remit the monthly installments from April 2014 onwards, as a condition for stay of recovery proceedings against them by the respondent bank. The petitioner approached this Court through the present writ petition, when it had defaulted in paying the monthly installments for June and July of 2015 and it apprehended that the respondent would initiate coercive steps in accordance with SARFAESI Act.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing for the respondents.

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that the SA preferred by the petitioner before the DRT, (SA 24 of 2014), is still

pending before the said forum. That apart, although initially there was an order of status-quo, that was granted in the writ petition, for a period of one week on 13.08.2015 and which was subsequently extended from time to time, by an order dated 16.09.2015, the said order was extended by two weeks on condition that the petitioner paid an amount of Rs.5,00,000/- on or before 30.09.2015. The petitioner has since complied with the said direction and paid an amount of Rs.5,00,000/-, within the time stipulated. As of now, there is no coercive action against the petitioner as stated by the respondent bank. Under the said circumstances, I am of the view that in the event of any further proceedings taken by the respondent bank, the petitioner can approach the DRT, where their SA is pending, for appropriate reliefs. I see no reason why this writ petition should be kept pending in this Court, especially since the petitioners have already approached the Debt Recovery Tribunal through the SA referred to above. Accordingly, leaving it open to the petitioner to pursue the SA before the DRT for further reliefs, I close this writ petition.

A.K.JAYASANKARAN NAMBIAR
JUDGE