IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 25372 of 2015 (V)

PETITIONER:

CHERIYA KUNHABDULLA, S/O KUNHAMMED,
PALAKKUNIYIL HOUSE, ERAVATTOOR PO,
KOYILANDY.

BY ADVS.SRI.V.V.ASOKAN (SR.)
SRI.P.P.RAMACHANDRAN

RESPONDENTS:

1. KOYILANDY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. NO. 2020, PO.BALUSSERY, PERAMBRA, KOZHIKODE-673612, REP.RESENTERD BY ITS BRANCH MANAGER.

2. THE SPECIAL SALE OFFICER, KOYILANDY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. 2020, PO BALUSSERY, PERAMBRA, KOZHIKODE-673 612.

BY SRI.B.V.JOY SANKER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 25372 of 2015 (V)

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE JUDGMENT IN WPC 13487/13 OF THIS HON'BLE COURT DATED 15/7/13

EXT.P2: TRUE COPY OF THE SALE NOTICE ISSUED BY THE RESPONDENTS TO THE PETITIONER DATED 16/2/15

EXT.P2(a): TRUE COPY OF THE ENGLISH TRASLATION OF EXT. P2 DATED 16/2/15

EXT.P3: TRUE COPY OF THE NOTICE OF THE 2ND RESPONDENT DATED 24/3/15

EXT.P3(a): TREU COPY OF THE ENGLISH TRANSALATION OF EXT. P3 DATED 16/2/15

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.25372 of 2015 V

Dated this the 19th day of August, 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 Exhibit P2 notice directing payment of ₹ 99,346/-.

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 the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the first respondent Bank, it is to be placed on

record 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, 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 four monthly instalments.

6. Earlier this Court granted the facility of instalment to the petitioner, but he has yet again committed default. The excuse offered by the petitioner is that he did not have the knowledge about the disposal of the writ petition. The record reveals that on more than one occasion the petitioner had the liberty of closing the loan even in instalments. Though the

petitioner does not deserve any indulgence of instalments one more time, the learned counsel for the respondent Bank has, however, consented that as a last chance the petitioner could be permitted to clear of the loan amount in four equal 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 four equal monthly instalments starting from 01.10.2015. 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 judgment.

Dama Seshadri Naidu, Judge

tkv