

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

WP(C).No. 26189 of 2015 (W)

PETITIONERS : -

1. JOSE A.A., S/O.ANTONY,
ALLOOR VIYYOKARAN HOUSE,
PERAMANGALAM P.O.,
THRISSUR DISTRICT-680 545.
2. ALICE C.D., W/O.JOSE,
ALLOOR VIYYOKARAN HOUSE,
PERAMANGALAM PO,
THRISSUR DISTRICT-680 545.

BY ADV.SRI.MAHESH V.MENON

RESPONDENTS : -

1. THE BRANCH MANAGER,
STATE SERVICE CO-OPERATIVE BANK LTD.,
THRISSUR BRANCH, AMBAKKADAN JUNCTION,
THRISSUR DISTRICT-680 001.
2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695 001.
3. THE DEPUTY REGISTRAR/SPECIAL ARBITRATOR CUM SALE OFFICER,
STATE SERVICE CO-OPERATIVE BANK LTD, REGIONAL OFFICE,
ERNAKULAM-682031.

BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR
BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BANK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON \ 04-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 26189 of 2015 (W)

APPENDIX

PETITIONERS' EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF RECEIPTS DATED 12.08.2015.

EXHIBIT P2 : TRUE COPY OF DEMAND NOTICE SERVED BY THE 2ND
RESPONDENT TO THE 1ST PETITIONER.

EXHIBIT P2(a) : TRUE COPY OF DEMAND NOTICE SERVED BY THE 2ND
RESPONDENT TO TE 2ND PETITIONER.

EXHIBIT P3 : REPRESENTATION MADE TO THE MINISTER, DEPARTMENT OF
CO-OPERATION, STATE OF KERALA.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 26189 of 2015

Dated this the 04th day of September, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned counsel for the first respondent Bank, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners, husband and wife, availed themselves of loans of Rs.2,00,000/- each from the first respondent Bank for running a business. They have committed default in the course of time.

3. Ventilating their grievance that they could not repay the loan amount owing to stringent financial constraints faced by them and that in the meanwhile the respondent Bank has been initiating recovery proceedings against them, the petitioners have filed the present writ petition.

4. The learned counsel for the petitioners has submitted that at no point in time have the petitioners got

any intention of evading the loan. On the other hand, the petitioners, contends the learned counsel, are willing to pay the entire amount due, in instalments. The learned counsel has fairly submitted that though the petitioners could not, as a matter of right, insist on their paying the loan amount in monthly instalments, they have sought the intervention of the Court purely owing to financial constraints.

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

6. In the facts and circumstances, as has been mutually agreed to by both the parties, this Court disposes of the writ petition directing the petitioners to repay the outstanding loan amount to the respondent Bank in ten equal monthly instalments beginning from October 2015. Needless to observe that if the petitioners commit any default in repaying the loan amount despite the repayment schedule mutually agreed upon, the respondent Bank is at

liberty to proceed further without reference to this judgment.

With the above observation, this writ petition is disposed of. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-