IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY,THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 19372

WP(C).No. 33739 of 2014 (N)

PETITIONER : -

SHIJU,
S/O.OUSEPH,
PALANKARA VEEDU,
SOUTH ADUVASSERRY P.O.,
ERNAKULAM 683578.

BY ADV.SRI.ANUMOD B.NAIR

RESPONDENT : -

PARAVUR TALUK CO-OPERATIVE AGRICULTURAL RURAL
DEVELOPMENT BANK LTD. NO E 1193,
NORTH PARAVUR,
ERNAKULAM,
REEPRESENTED BY ITS SECRETARY, PIN 683513.

BY ADV.SRI.JEEMON K.ABRAHAM
BY ADV.SRI.T.P.SAJAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 33739 of 2014 (N)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : TRUE COPY OF THE DEMAND NOTICE DATED 17-10-2014 ISSUED BY THE RESPONDENT.

EXHIBIT P2 : TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.

EXHIBIT P3 : TRUE COPY OF THE NOTICE OF THE RESPONDENT DATED 16.02.2015.

RESPONDENT'S EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 33739 of 2014

Dated this the 25th day of May, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent, 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. The petitioner, a farmer, availed himself of housing loan from the respondent Bank by borrowing an amount of Rs.4,00,000/- in 2013, having mortgaged five cents of land standing in petitioner's position. When the petitioner committed default in repayment of the loan, the respondent Bank issued Exhibit P1 demand notice quantifying outstanding loan amount at Rs.4,29,549/-. Eventually, impugning Exhibit P1 demand notice, the petitioner has filed the present writ petition.

3. As could be seen from the record, on 15.12.2014, this Court issued an interim direction staying the operation of Exhibit P1 on the condition of the petitioner's depositing Rs.50,000/- within a period of two weeks, which direction is said to have been complied by the petitioner.

4. As a matter of subsequent developments, the respondent Bank issued Exhibit P3 notice calling on the petitioner to submit his representation to take advantage of Aswas 2015 Scheme.

5. In the above factual background, the learned counsel for the petitioner submits that pursuant to Exhibit P3, the petitioner did appear before the respondent Bank and submitted his representation to take advantage of Aswas Scheme. It is his singular contention that before proceeding further with recovery of the loan amount, the respondent Bank shall consider the petitioner's claim for the benefit under the Scheme.

6. The learned counsel for the respondent Bank, on his part, has submitted that the respondent Bank is all set to consider the petitioner's claim in terms of Exhibit P3 notice issued by the respondent Bank and Aswas Scheme in

force. He has further submitted, in my view fairly, that the respondent Bank will take further steps concerning the recovery of loan only after considering the petitioner's claim *vis-a-vis*, the Scheme in question.

7. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned counsel for the respondent, this Court, without expressing any opinion on the merits of the matter, disposes of the present writ petition with a direction to the respondent Bank to consider petitioner's claim for the benefit of Aswas Scheme in terms of Exhibit P3 notice and in terms of the scheme in force, before it could proceed further to recover the loan amount, if necessary.

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

DAMA SESHADRI NAIDU
JUDGE

DMR/-