

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937**

**WP(C).No. 33856 of 2015 (F)**  
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**PETITIONER(S):**  
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1. **ASSAINAR,  
S/O.KOCU MAKKAR,  
PALLATHU PARA HOUSE, EDATHALA P.O.,  
EDATHALA, PIN - 682 030.**
2. **KHADEEJA, W/O.ASSAIAR,  
PALLATHU PARA HOUSE, EDATHALA PO.,  
EDATHALA, PIN - 682 030.**

**BY ADV. SRI.P.K.ABOOBACKER (EDAPPALLY)**

**RESPONDENT(S):**  
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1. **THE AUTHORISED OFFICER (CHIEF MANAGER),  
PUNJAB NATIONAL BANK, RECOVERY DEPARTMENT,  
CIRCLE OFFICE, MARKET ROAD,  
ERNAKULAM, PIN - 682 011.**
2. **THE BRANCH MANAGER,  
PUNJAB NATIONAL BANK,  
THRIKKAKARA BRANCH, PIN - 682 021.**
3. **MANUAL JOSEPH, S/O.ANTONY,  
PUTHU VEETIL HOUSE, CHEMPU MUKKU,  
VAZHAKKALA, NOW RESIDING AT "DISNEY"  
MIR FLATS, FLAT NO.18 C, NEAR N.G.O. QUARTERS,  
KAKKANAD P.O., PIN - 682 030.**
4. **MANOHARAN, KUNDAPPADATH VEETIL,  
THEVAKKAL VKC P.O., NOW RESIDING AT  
PANCHAYATH ROAD, MYTHANI MUGAL,  
EDATHALA P.O., PIN - 683 561.**
5. **THE SUB INSPECTOR OF POLICE,  
THRIKKAKARA POLICE STATION,  
THRIKKAKARA, PIN - 682 0121.**

**R1 & R2 BY ADVS.SRI.SANTHEEP ANKARATH, SC  
SRI.DEEPAK JOY.K.**

**R5 BY GOVERNMENT PLEADER SMT.LILLY K.T.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

**EXT.P1: THE TRUE COPY OF THE SALE DEED NO.4217/2012 DTD.23.11.2012 OF THE ALUVA SUB REGISTRY.**

**EXT.P2: THE TRUE COPY OF THE AGREEMENT DTD.27.3.2013 EXECUTED BETWEEN THE PETITIONERS AND THE 3RD RESPONDENT.**

**EXT.P3: THE TRUE COPY OF THE COMPLAINT DTD.11.9.2015 FILED BY THE 1ST PETITIONER BEFORE THE DEPUTY COMMISSIONER OF POLICE, ERNAKULAM.**

**EXT.P4: THE TRUE COPY OF THE F.I.R. IN CRIME NO.1137/2015 DTD.13.9.2015 OF THRIKKAKARA POLICE STATION.**

**EXT.P5: THE TRUE COPY OF THE PLAINT IN OP.(INDIGENT) NO.6/2015 FILED BEFORE THE PRINCIPAL SUB COURT, PARAVUR.**

**EXT.P6: THE TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE BANK IN THE INTERIM APPLICATION IN OP (INDIGENT) NO.6/2015 BEFORE THE PRINCIPAL SUB COURT, PARAVUR.**

**EXT.P7: THE TRUE COPY OF THE SALE NOTICE DTD.19.10.2015 PUBLISHED BY THE PUNJAB NATIONAL BANK.**

**RESPONDENT(S)' EXHIBITS:**

**NIL**

**//TRUE COPY//**

**P.S.TO JUDGE**

**Msv/**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.33856 OF 2015 (F)**  
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**Dated this the 9<sup>th</sup> day of November, 2015**

**J U D G M E N T**

The petitioners have approached this Court aggrieved by the steps taken by the respondent bank to secure possession of the residential property of the petitioners which had been offered as security by the 3<sup>rd</sup> respondent for a loan advanced to the said 3<sup>rd</sup> respondent by the respondent bank. The case of the petitioners in the writ petition is that they had entered into a sale in respect of the property with the 3<sup>rd</sup> respondent so as to facilitate the availment of a loan for their benefit, and the 3<sup>rd</sup> respondent had obtained the said loan amount by mortgaging the property with the respondent bank. It is stated that thereafter, the 3<sup>rd</sup> respondent did not remit the installment due to the respondent bank, and it is therefore that the respondent bank has taken steps for realisation of the defaulted loan amounts by proceeding against the property, which according to the petitioners belongs to them and is in their possession. Learned Standing counsel for the respondent bank would submit that the loan was advanced to the 3<sup>rd</sup> respondent against the mortgage by deposit

of title deeds, whereby, the 3<sup>rd</sup> respondent had offered the very same property by depositing the title deeds thereof with the respondent bank. When the 3<sup>rd</sup> respondent had defaulted in repayment of the loan amounts, the bank initiated proceedings for recovery of the defaulted loan amounts and proceeded inter alia against the secured asset, which, according to the petitioners, is in their possession.

2. I have heard the learned counsel for the petitioner as also the learned Standing counsel for the respondent bank.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I find that inasmuch as the petitioners have admittedly sold their property to the 3<sup>rd</sup> respondent, and the 3<sup>rd</sup> respondent has mortgaged the said property to the respondent bank, the petitioners cannot be seen complaining against any action taken by the respondent bank for recovery of the defaulted loan amounts inter alia by proceeding against the property that was offered as security for the loan advanced to the 3<sup>rd</sup> respondent. The petitioners herein are strangers to the said transaction between the 3<sup>rd</sup> respondent and the respondent bank, and hence, they do not have

the locus standi to maintain the present writ petition challenging the action initiated by the respondent bank against the property in question. The writ petition therefore fails, and is accordingly dismissed.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

prp/9/11/15