

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 34268 of 2015 (G)

PETITIONERS:-

- 1. VIPIN VISWANATHAN AGED 37 YEARS
S/O.VISWANATHAN, VINU VILLA, KARUVATTA
ALAPPUZHA.**
- 2. BINULAL AGED 46 YEARS
SHYLA BHAVAN, KARUVATTA, ALAPPUZHA.**
- 3. VINU AGED 47 YEARS
S/O.VISWANATHAN, VINU VILLA, KARUVATTA
ALAPPUZHA.**

BY ADV. SRI.K.S.VIJAYAKUMAR

RESPONDENTS:-:

- 1. DISTRICT COLLECTOR, ALAPPUZHA
ALAPPUZHA - 688 001.**
- 2. THE VILLAGE OFFICER
KARUVATTA VILLAGE, KAVUVATTA - 690 517.**
- 3. MANAGER
CANARA BANK, CHENGANNUR BRANCH, CHENGANNUR - 689 121.**
- 4. MANAGER
CANARA BANK, A R M BRANCH, ERNAKULAM - 682 031.**

**R3-R4 BY ADV. SRI.M.GOPIKRISHNAN NAMBIAR
R3-R4 BY ADV. SRI.P.GOPINATH MENON
R3-R4 BY ADV. SRI.P.BENNY THOMAS
R3-R4 BY ADV. SRI.K.JOHN MATHAI
R3-R4 BY ADV. SRI.JOSON MANAVALAN
R3-R4 BY ADV. SRI.KURRYAN THOMAS
R1 BY GOVERNMENT PLEADER SMT. M.J. RAJASREE**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- P1. TRUE COPY OF THE PETITION IN OA 84/2011 BEFORE THE DEBT RECOVERY TRIBUNAL.**
- P2. TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE PETITIONERS BEFORE THE DEBT RECOVERY TRIBUNAL.**
- P3. TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 1ST RESPONDENT DATED 14.10.2015.**

RESPONDENT(S)' EXHIBITS

- ANNEXURE R3(A) TRUE COPY OF MASTER CIRCULAR ISSUED BY THE RESERVE BANK OF INDIA DATED 01.07.2015**

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 34268 of 2015 (G)

Dated this the 16th day of December, 2015

J U D G M E N T

The petitioners raise a short contention against the revenue recovery proceedings, being that the same is hit by limitation for reason of the proceedings having been initiated for recovery of a loan availed in 2007, in the year 2015. The learned Counsel also relies on **State of Kerala v. Kalliyankutty - 1999 (2) KLT 146 (SC)**.

2. The respondent has filed a counter affidavit indicating that the petitioners had availed of an overdraft facility of Rs.7 lakhs in the year 2007, which was enhanced to Rs.30 lakhs in 2008 and Rs.33 lakhs in 2009. It is also averred that the petitioners have mortgaged the properties as security for the overdraft

facility availed. Further, the overdraft facility is said to be a continuing facility, on which transactions were made by the petitioners.

3. In such circumstance, the limitation of three years for recovery of money is not applicable. The limitation has to be applied from the day on which the last transaction was made; when the limit exceeded that sanctioned and obviously the overdraft facility is one of a continuing nature. The mortgage made, further extends the limitation to 12 years. **Kalliyankutty** (supra) would stand against the petitioners.

The writ petition would stand dismissed in limine.

Sd/-
K.VINOD CHANDRAN,
JUDGE