

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

WP(C).No. 34624 of 2015 (C)

PETITIONER:

RADHAKRISHNAN NAIR, AGED 50 YEARS,
S/O. JANARDHANAN PILLAI, PANKAJA MANDIRAM,
POOTHAKULAM P.O., KOLLAM.

BY ADV. SMT.G.VIDYA

RESPONDENTS:

1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, KOLLAM
PIN - 691 001.
2. ASSISTANT REGISTRAR/ARBUTRATOR,
KOLLAM DISTRICT CO-OPERATIVE BANK LTD.,
KOLLAM - 691 001.
3. KOLLAM DISTRICT CO-OPERTIVE BANK LTD.,
REPRESENTED BY THE BRANCH MANAGER, PARAVOOR BRANCH,
KOLLAM - 691 301.

R3 BY ADV. SRI.T.R.HARIKUMAR, SC, KOLLAM DISTRICT
CO-OPERATIVE BANK LTD.
R BY SRI. G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 34624 of 2015 (C)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

P1 - THE TRUE COPY OF THE AWARD PASSED BY THE 2ND RESPONDENT IN ARC
NO. 1069/2009 DT. 15.2.2010 AND ENGLISH TRANSLATION.

P2 - THE TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT DT.
16.2.2015 AND ENGLISH TRANSLATION.

P3 - THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER
BEFORE THE 3RD RESPONDENT DT. 04.3.2015.

RESPONDENTS' EXHIBITS :

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 34624 of 2015 (C)

Dated this the 14th day of December, 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 third respondent Bank, assailed Exts. P1 award and P2 notice directing payment of ₹1,03,362/- .

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 from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the third respondent Bank, I may have to observe 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, evidently 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 third respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in eight 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 eight equal monthly instalments starting from 01.01.2016. 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 Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

rv

