

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

**PRESENT:**

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

**MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936**

**WP(C).No. 34932 of 2014 (N)**  
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**PETITIONER(S) :**  
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**UNION BANK OF INDIA, PATTITHARA BRANCH,  
PATTITHARA, PALAKKAD,  
REPRESENTED BY ITS BRANCH MANAGER.**

**BY ADVS.SRI.A.S.P.KURUP, SC, UBI  
SRI.SADCHITH.P.KURUP**

**RESPONDENT(S) :**  
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- 1. STATE OF KERALA,  
REVENUE DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,  
COLLECTORATE, PALAKKAD-678 001.**
- 3. THE DEPUTY TAHSILDAR (RR),  
TALUK OFFICE, PATTAMBI- 679 303.**
- 4. THE VILLAGE OFFICER,  
PATTITHARA VILLAGE OFFICE, PALAKKAD-679 534.**
- 5. UNNIKRIISHNAN P.,  
PALLATH HOUSE, PATTITHARA, PALAKKAD-679 534.**

**R1 TO R4 BY GOVERNMENT PLEADER SRI.SHYSON.P.MANGUZHA  
R5 BY ADVS. SRI.THOMAS T.VARGHESE  
SRI.N.SASI  
SMT.T.M.BINITHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 02-03-2015, ALONG WITH O.P.(DRT)NO.14 OF 2015, THE COURT  
ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXT.P1:       ZEROX COPY OF DEMAND NOTICE UNDER SECTION 7  
DATED 25/09/2014 ISSUED TO THE 5TH RESPONDENT.**
- EXT.P2:       ZEROX COPY OF NOTICE UNDER SECTION 34 DATED 25/09/2014  
ISSUED TO THE 5TH RESPONDENT.**
- EXT.P3:       ZEROX COPY OF THE COMMUNICATION DATED 05/11/2014 ISSUED BY  
PRIVATE SECRETARY TO MINISTER FOR REVENUE TO  
5TH RESPONDENT.**

**RESPONDENT(S)' EXHIBITS**  
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**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

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

.....

**W.P.(C) No. 34932 of 2014**

**&**

**O.P.(DRT) No.14 of 2015**

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Dated this the 2<sup>nd</sup> day of March, 2015

**JUDGMENT**

The issues involved in both these cases are similar and hence they are taken up together for disposal. The petitioner in both these cases is a nationalised Bank and a secured creditor. In respect of a loan facility that was granted to the 5<sup>th</sup> respondent in the writ petition (the respondent in O.P(DRT), the petitioner Bank had initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', and simultaneously resorted to the provisions of the Kerala Revenue Recovery Act, for recovery of the defaulted loan amounts. The revenue recovery proceedings were put on hold by the revenue authorities, on the basis of Ext.P3 communication issued from the office of the Revenue Minister, which indicated that as per the directions of the Minister concerned, the recovery proceedings were directed to be stayed on condition that the petitioner remitted the defaulted amounts in 40 installments.

2. In the writ petition, the petitioner Bank impugns the said communication and calls into question the power of the State Government to grant stay of recovery proceedings that have been initiated at the instance of the petitioner Bank.

3. In the original petition, the challenge by the petitioner Bank is against Ext.P5 order of stay granted by the Debt Recovery Tribunal in S.A.No.455 of 2014 that was filed by the respondent before the Tribunal. A perusal of Ext.P5 order of the Tribunal would indicate that the Tribunal considered the stay order, granted by the State Government, against the recovery proceedings that were initiated against the respondent at the instance of the petitioner Bank, and then proceeded to grant a stay to the respondent in the application filed by him before the said Tribunal. Thus, the challenge in the original petition is against the interim order passed by the Debt Recovery Tribunal based on the stay order passed by the State Government, which is the order impugned in the writ petition.

4. I have heard Sri. Sadchith P.Kurup, learned counsel for the petitioner Bank in both the cases and Sri.Tomson T. Varghese, learned counsel for the respondent in original petition and the 5<sup>th</sup> respondent in the writ petition and also Sri.Shyson P.Manguzha, learned Government Pleader on behalf of the official respondent in the writ petition.

5. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that the issue as

to whether the State Government can grant installment facility or stay revenue recovery proceedings, in cases where the moneys in question are due to notified authorities, has already engaged the attention of this Court, and by the decision reported in **Abdul Navas v. Dhanalakshmi Bank Ltd. [2008 (4) KLT 638]** it has been held that the State Government cannot interfere with recovery proceedings in relation to Bank loans, initiated under the Revenue Recovery Act. It is apparent, therefore, that in the light of the aforecited decision, the stay granted by the State Government against the recovery proceedings, which form the subject matter of the writ petition, cannot be legally sustained. It also follows, as a consequence, that the interim order of stay granted by the DRT, which is impugned in the original petition, also cannot be legally sustained. Resultantly, I quash Ext.P3 in W.P.(C) 34932 of 2014 together with the decision on the basis of which it has been issued, as also Ext.P5 order in O.P (DRT) No.14 of 2015. The DRT shall consider the stay application preferred by the respondent in O.P.(DRT) No.14 of 2015 in S.A.No.455 of 2014 afresh, after hearing the parties, within a period of one month from the date of receipt of a copy of this judgment.

6. It is made clear that with the quashing of the decision of the

State Government granting stay against further proceedings under the Revenue Recovery Act, there is no embargo on the respondent Nos.2 and 3 to continue with the proceedings under the Revenue Recovery Act.

Both these cases are disposed as above.

Sd/-  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

AMV/03/03/