

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 35199 of 2015 (Y)

PETITIONERS :

- 1. SATHYASEELAN, PROPRIETOR,
M/S. SREENILAYAM & PARTNER,
M/S. SREENILAYAM TRANSPORTS, SREENILAYAM,
ATTUKUZH, KAZHAKUTTAM, THIRUVANANTHAPURAM-695 582.**
- 2. INDIRASEEIAN, PROPX.M/S. SREENILAYAM TRANSPORT & PARTNER,
M/S, SREENILAYAM TRANSPORTS, SREENILAYAM, ATTUKUZH,
KAZHAKUTTAM, THIRUVANANTHAPURAM-695 582**

**BY SMT.SUMATHY DANDAPANI,SENIOR ADVOCATE
ADVS. SRI.MILLU DANDAPANI
SRI.PREMCHAND R.NAIR**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER, CANARA BANK,
KAZHAKUTTAM BRANCH, THIRUVANANTHAPURAM-695 582**
- 2. THE BRANCH MANAGER, CANARA BANK,
KAZHAKUTTAM BRANCH, THIRUVANANTHAPURAM-695 582**

BY SRI.PAULY MATHEW MURICKEN,SC,CANARA BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE E-AUCTION NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS DATED 30/4/2015**
- P2 COPY OF THE COMMUNICATION ISSUED BY THE CHIEF MANAGER SBT KAZHAKOOTTAM BRANCH DATED 15/07/2015**
- P3 COPY OF THE STATEMENT BY THE CHARTERED ACCOUNT M/S. G VENUGOPALAN NAIR AND CO= DATED 25/10/2015**
- P4 COPY OF THE JUDGMENT IN WP(C).NO.14283 OF 2015 DATED 19/10/2015**
- P5 COPY OF THE LETTER DATED 12/10/2015 ISSUED UNDER SECTION 13(4) OF SARFEST ACT**
- P6 COPY OF THE LETTER SUBMITTED BY THE 1ST PETITIONER ON BEHALF OF THE 2ND RESPONDENT DATED 02/11/2015**
- P7 COPY OF THE COVERING LETTER DATED 14/11/2015 ISSUED ALONG WITH THE DOCUMENTS TO THE SY. GM OF THE RESPONDENT BANK THROUGH SENIOR BRANCH MANAGER.**
- P8 COPY OF THE AUCTION NOTICE PUBLISHED IN THE MATRUBHUMI DAILY DATED 17/10/2015**

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

PA.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35199 of 2015

Dated this the 20th day of November 2015

JUDGMENT

The challenge in the writ petition is against the recovery steps initiated by the respondent bank for recovery of defaulted loan amounts from the petitioner. Ext.P8 is the auction notice published by the respondents, scheduling the sale of the property on 21.11.2015. When the writ petition was taken up for admission as a today moving version, it was noticed that by Ext.P4 judgment rendered in W.P.(C).No.14283/15, the petitioner had sought permission to withdraw the writ petition, without prejudice to his right to approach the Debts Recovery Tribunal, for further reliefs. In the said judgment, there is a specific reference made to the submission by the respondent bank that a fresh sale notice had been issued then, fixing the sale of the secured assets on 21.11.2015. It is apparent therefore, that while withdrawing the writ petition, the petitioner was aware of the posting of the sale on 21.11.2015. The facts in the present writ petition would indicate that not only has the petitioner not approached the debts recovery tribunal but he waited till today (20.11.2015), to file the present writ petition, seeking to interdict the sale that is scheduled on

21.11.2015. I am of the view that the petitioner cannot seek any discretionary relief from this Court in these proceedings under Article 226 of the Constitution of India.

The writ petition fails and is accordingly dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

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