IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

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

WP(C).No. 36654 of 2015 (F)

PETITIONER :

TINTU BIGILY, AGED 31 YEARS
S/O.BIGILY, VALIYAKUNNATH HOUSE, KANJIRAPPALLY P.O.
KOTTAYAM.

BY ADVS.SRI.T.M.ABDUL LATHIFF
SRI.K.ASHOK SARAN

RESPONDENT(S) :

1. **STATE OF KERALA**
   REPRESENTED BY SECRETARY, REVENUE DEPARTMENT
   THIRUVANANTHAPURAM-695001.

2. **THE GENERAL MANAGER**
   STATE BANK OF TRAVANCORE,
   THIRUVANANTHAPURAM- 695001.

3. **BRANCH MANAGER**
   STATE BANK OF TRAVANCORE,
   KANJIRAPPALLY- 686507.

4. **THE DEPUTY TAHSILDAR (RR)**
   KANJIRAPPALLY- 686507.

5. **THE VILLAGE OFFICER**
   KANJIRAPPALLY- 686507.

R1, R4 & R5 BY GOVT. PLEADER SMT. LILLY K.T.
R2 & R3 BY ADV. SRI.R.S.KALKURA, SC

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

Mn

WP(C).No. 36654 of 2015 (F)

APPENDIX

PETITIONERS' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE DEMAND NOTICE DATED 16.03.2015.

EXHIBIT-P2: TRUE COPY OF THE RELEVANT PAGES OF THE PASS BOOK OF THE PETITIONER.

EXHIBIT-P3: TRUE COPY OF THE RECEIPT NO.3423624 DATED 22.03.2015 ISSUED BY THE 5TH RESPONDENT.

EXHIBIT-P4: TRUE COPY OF THE RECEIPT DATED 27.11.2015 ISSUED BY THE BANK TO THE PETITIONER.

EXHIBIT-P5: TRUE COPY OF THE RECEIPT NO.3983737 DATED 27.11.2015 ISSUED BY THE 5TH RESPONDENT.

EXHIBIT-P6: TRUE COPY OF THE PETITION DATED 28.11.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.36654 of 2015

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Dated this the 16th day of December, 2015

<u>J U D G M E N T</u>

The grievance of the petitioner in the writ petition is against the initiation of revenue recovery proceedings by the respondent bank for recovery of amounts defaulted by the petitioner under a personal vehicle loan transaction. It is the specific contention of counsel for the petitioner that the personal vehicle loan is not one that is granted under the priority sector, and therefore, will not qualify for recovery in terms of the Kerala Revenue Recovery Act. Reliance is placed on Section 71 of the Kerala Revenue Recovery Act to support the said contention.

2. I have heard the learned counsel for the petitioner and also the learned Standing counsel for the 2nd and 3rd respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar and taking note of the submission of the learned Standing counsel for the respondent

bank that the personal vehicle loan will not come under the definition of a loan under the priority sector, I am of the view that, the initiation of revenue recovery proceedings under the Kerala Revenue Recovery Act for recovery of the defaulted loan amounts by the petitioner cannot be legally sustained.

Resultantly, I quash Ext.P1 demand notice issued to the petitioner under the Kerala Revenue Recovery Act, making it clear that, the quashing of the said notice will not stand in the way of the respondent bank initiating other modes of recovery against the petitioner in accordance with law. The amounts, if any, collected from the petitioner by way of collection charges under the Kerala Revenue Recovery Act shall be refunded to him within a period of three weeks from the date of receipt of a copy of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/17.12.15