IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 23RD DAY OF JANUARY 2020 / 3RD MAGHA, 1941

WP(C).No.35584 OF 2019(W)

PETITIONER:

PADMANABHAN V.,
AGED 65 YEARS
S/O. KUNHIRAMAN, VALAPPIL HOUSE, PALLIKKARA,
THOTTUMPURAM, P O KOTTAPURAM, NILESHWAR VILLAGE,
HOSDURG TALUK, KASARAGOD-671314.

BY ADVS.
SRI.BRIJESH MOHAN
SHRI.ASADU AHMMED CHULLINTE

RESPONDENTS:

1 **UNION BANK OF INDIA,**
REPRESENTED BY ITS BRANCH MANAGER,
NILESHWAR BRANCH,
CITY PLAZA-FIRST FLOOR, MARKET ROAD, KASARAGOD-671314.

2 **THE AUTHORISED OFFICER,**
UNION BANK OF INDIA, REGIONAL OFFICE, 1ST FLOOR, KSHB COMPLEX, VIKAS NAGAR, EAST HILL ROAD, KOZHIKODE-673006.

SRI.A.S.P.KURUP, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J

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W.P.(C). NO. 35584 OF 2019

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Dated this the 23rd day of January 2020

J U D G M E N T

The prayers in the above writ petition are as follows:

> *"i) Issue a writ of certiorari or any other appropriate writ, order or direction calling for the records leading to Ext.P1, P2 and Ext.P5 and quash the same.*
>
> *ii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to regularize the loan account of the petitioners by granting 20 equal monthly installments to pay off the outstanding dues and permit the petitioner to remit the remaining amount as per the terms and conditions of the loan agreement. "*

2. Heard Sri. Brijesh Mohan, learned counsel appearing for the petitioner and Sri. A.S.P Kurup, learned standing counsel appearing for the respondent Union Bank of India.

3. The learned standing counsel appearing for the respondent Union Bank of India has recorded specific instructions in the matter. Today, when the matter was taken up for consideration, Sri. A.S.P Kurup, learned standing counsel appearing for the respondent, Union Bank of India that the overdues to be cleared by the petitioner as on 20/12/2019 for regularizing the loan account in this case is around Rs.2,88,000/- and that

the petitioner has not effectively complied with the conditional interim order dated 20/12/2019 issued by this Court in this WP(c) to pay an amount of Rs.75,000/- to the respondent Bank on or before 31/12/2019 and that out of the said amount, the petitioner has paid only Rs.5,000/- and the balance overdues now would be around Rs.2,23,000/-. Further that the sale of the subject property is now scheduled to take place on 31/01/2020 and that even now the respondent Bank is prepared to give the petitioner, one last opportunity to clear the overdues for regularizing the loan account, provided petitioner proves his bonafides by paying the balance amount ordered by this Court as per the interim order, coming to Rs.70,000/- on or before 30/01/2020 and in case the petitioner pays the said amount of Rs.70,000/- on or before 30/01/2020, then the respondent Bank will give further time to the petitioner to clear the balance overdues in 4 equal monthly installments, viz on or before 29/02/2020, on or before 31/03/2020, on or before 30/04/2020 and on or before 31/05/2020, subject to the stringent conditions regarding default conditions.

4. That in case the petitioner commits default with anyone of the installments, then the respondent Bank would thereupon immediately proceed further with the impugned proceedings from the stage where it has been stopped. Taking note of the said submissions of the respondent Bank, it is ordered as follows:

(i) The competent official of the respondent bank shall immediately furnish a comprehensive and authenticated statement of accounts pertaining to the instant loan transaction in question showing the precise details thereof and the total dues to be cleared by the borrower as on the date of issuance of the said statement.

(ii) The petitioner shall immediately pay an amount of Rs.70,000/- to the respondent Bank on or before 30/01/2020. In that regard, it is ordered that petitioner need not wait for the formal issuance of certified copy of this judgment and should straight away proceed to make the said payment to meet the said time deadline. In case the petitioner does not pay the amount of Rs.70,000/- to the respondent Bank on or before 30/01/2020, then the respondent Bank will immediately proceed further with the sale proceedings which is now scheduled to be held on 31/01/2020.

(iii) In case the petitioner pays the amount of Rs.70,000/- to the respondent Bank on or before 30/01/2020, then the respondent Bank allow the petitioner to clear the balance overdues in 4 equal installments, which are payable on or before 29/02/2020, on or before 31/03/2020, on or before 30/04/2020 and on or before 31/05/2020 respectively. Until the expiry of such time limit, the respondent Bank may keep in abeyance, further steps pursuant to the impugned proceedings. However this shall be subject to additional conditions that the petitioner shall pay all the applicable charges and interests thereon and shall also pay the regular EMI's in time.

(iv) In case the petitioner does not comply with any of the above conditions, or defaults with anyone of the said installment including regular EMI's then the respondent Bank

may thereupon immediately proceed further with the impugned proceedings from the stage where it has been stopped.

(vii) In case the petitioner complies with all the above said conditions and clears the entire dues as afore stated within the said outer time limit of 31/05/2020, then the respondent Bank may take further steps to ensure that the loan account is duly regularized.

With these observations and directions, the above Writ Petition (Civil) stands finally disposed of.

Sd/-

ALEXANDER THOMAS

JUDGE

Nsd
//true copy//
PA to Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**COPY OF THE DEMAND NOTICE DATED 05.03.2019 ISSUED BY THE RESPONDENT TO THE PETITIONER.**
EXHIBIT P2	**COPY OF THE POSSESSION NOTICE DATED 27.05.2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS UNDER RULE 8(1) OF SECURITY ENFORCEMENT RULES 2002.**
EXHIBIT P3	**COPY OF THE RELEVANT EXTRACT OF THE GOVERNMENT ORDER GO(P) NO.1/2019/DMD DATED 23.08.2019.**
EXHIBIT P4	**COPY OF THE COMMUNICATION DATED 3.09.2019 ISSUED TO ALL THE MEMBERS OF STATE LEVEL BANKERS COMMITTEE, KERALA APPROVING RELIEF MEASURES FOR THE FLOOD AFFECTED AREAS.**
EXHIBIT P5	**COPY OF THE SALE NOTICE DATED 26.11.2019 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER.**
EXHIBIT P6	**COPY OF THE DESHABHIMANI DAILY DATED 30.11.2019 IS CONTAINING THE SALE NOTICE.**