IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

MONDAY, THE 5TH DAY OF AUGUST 2024 / 14TH SRAVANA, 1946

WP(C) NO. 39298 OF 2023

PETITIONER

MARIAMMA
AGED 67 YEARS
W/OVARGHESE, CHENNAMPALLIL HOUSE,
CHARAL PO, KANNUR DISTRICT,
PIN - 670706

BY ADVS.
SHINTO THOMAS
KRISHNADAS P. NAIR
K.L.SREEKALA
HARIDAS P.NAIR
M.A.VINOD
M.RAJESH KUMAR
ANU PRABHAKAR
PRASOON.K.P
DEVIKA. R. KRISHNA

RESPONDENTS:

1 **THE BRANCH MANAGER**
ANAPANTHY SERVICE CO-OPERATIVE BANK,
ANGADIKADAVU BRANCH,
ANGADIKADAVU (PO), KANNUR DISTRICT,
PIN - 670706

2 **THE SECRETARY**
ANAPANTHY SERVICE CO-OPERATIVEBANK,
ANGADIKADAVU (PO), KANNUR DISTRICT,
PIN - 670706

3 **THE SPECIAL SALE OFFICER**
ANAPANTHY SCB GROUP,
O/O ASSISTANT REGISTRAR GENERAL IRITTY,
PUNNAD(PO),KANNUR DISTRICT,

PIN - 670703

4 ASSISTANT REGISTRAR
OFFICE OF THE IRITTYCO-OPERATIVE SOCIETIES
GENERAL,PUNNAD (PO),
IRITTY, KANNUR(DT),
PIN - 670703

BY ADVS.
M.B.SHYNI
RAMEES P.K.(K/000077/2020)
RAJESH KUMAR R.(K/112/2013)
V.R.ANILKUMAR(K/001161/2020)
SARAFUDHEEN T.(K/801/2022)

SMT.ANIMA M.-GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 5th day of August, 2024

The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Anapanthy Service Co-operative Bank to the petitioner, invoking the provisions of the Kerala Co-operative Societies Act, 1969.

2. The Bank paid ₹10 lakhs to the petitioner as Mortgage Loan in the year 2014. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, she could not pay the instalments promptly later due to Flood and Covid-19 pandemic. The repayment of loan fell into arrears later. It happened due to reasons beyond the control of the petitioner.

3. Though the petitioner requested the Bank to permit the petitioner to repay the overdue amounts in easy monthly

instalments, the Bank authorities were not yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Kerala Co-operative Societies Act, 1969 and issued Ext.P1 notice.

4. The petitioner states that she is still in a position to clear the overdue amounts towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If the respondents are permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioner, she will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of the Bank and denied all the statements made by the petitioner. On behalf of respondents 1 to 3, it is submitted that the loan was given to the petitioner in the year 2014. The petitioner committed default in repaying the loan.

6. The Bank repeatedly reminded the petitioner and required her to clear the dues. The petitioner deliberately

omitted to do so. In the circumstances, the Bank had no other go than to proceed against the petitioner invoking the provisions of the Kerala Co-operative Societies Act, 1969. The impugned Ext.P1 was issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the Bank.

7. The Standing Counsel, however, submitted that if the petitioner is ready and willing to make a substantial payment soon and remit the balance outstanding amount immediately thereafter, a short breathing time can be granted to the petitioner to clear the dues. The Standing Counsel submitted that the outstanding amount due to the Bank from the petitioner as on 05.08.2024 is ₹10,63,376/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank. I have also heard the Government Pleader representing the 4th respondent.

9. The specific case of the petitioner is that the petitioner has been making the repayment and maintaining the loan account initially. The default in repayment of the loan occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will safeguard the interest of the Bank.

10. In the facts and circumstances of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioner to clear off the liability.

11. The writ petition is therefore disposed of with the following directions:

(i) The petitioner shall remit the outstanding amount of ₹10,63,376/- in 20 consecutive and equal monthly instalments along with accruing interest and other Bank charges, if any. First of such instalments shall be paid on or before 05.09.2024.

(ii) If the petitioner commits single default in making payments as directed above, the respondents will be at liberty to continue with the coercive proceedings against the petitioner in accordance with law.

(iii) If the petitioner makes payments as directed above, coercive proceedings, if any, against the petitioner shall stand deferred.

Sd/-

N.NAGARESH

JUDGE

hmh

APPENDIX OF WP(C) 39298/2023

PETITIONER EXHIBITS

Exhibit P1	**THE TRUE COPY OF THE AUCTION SALE NOTICE SENT BY THE 3RD RESPONDENT TO THE PETITIONER DATED 30.10.2023**
Exhibit P2	**THE TRUE COPY OF THE REPRESENTATION MADE BY THE PETITIONER BEFORE THE 1ST, 2ND AND 3RDRESPONDENT DATED 20.11.2023**