IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946

WP(C) NO. 22007 OF 2024

PETITIONER:

MANUEL M. CHEMPARATHY,
AGED 64 YEARS,
S/O MANI P.C, CHEMPARATHY HOUSE,
MUTHALAKODAM (P.O) THODUPUZHA,
IDUKKI, PIN – 685605

BY ADVS.
PRANOY K.KOTTARAM
GEORGE MATHEWS
T.K.SREENARAYANA DAS
SIVARAMAN P.L
ATHUL BABU

RESPONDENTS:

1 **MUTHALAKODAM SERVICE CO-OPERATIVE BANK LTD.,**
NO.1403 MUTHALAKODAM (P.O),
THODUPUZHA, IDUKKI, PIN - 685605
REPRESENTED BY ITS SECRETARY.

2 **SPECIAL SALE OFFICER,**
KARINKUNNAM GROUP,
OFFICE OF THE ASSISTANT REGISTRAR (GENERAL)
THODUPUZHA,
IDUKKI, PIN - 685584

3 **JOINT REGISTRAR,**
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) CHERUTHONY,
IDUKKI, PIN – 685602

BY ADVS.
N.K.SHYJU
MABLE C KURIAKOSE, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 1st day of August, 2024

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

2. The petitioner along with his wife and daughter availed loans of ₹30 lakhs from the 1st respondent-Bank in the years 2017 and 2018. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, he could not pay the instalments promptly later. The repayment of loans 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 outstanding 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 Exts.P1 to P3 notices.

4. The petitioner states that he is still in a position to clear the outstanding 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, he 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 the respondents, it is submitted that the loans were given to the petitioner in the years 2017 and 2018. The petitioner committed default in repaying the loan.

6. The Bank repeatedly reminded the petitioner and required him 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 Exts.P1 to P3 notices were 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 31.07.2024 is ₹48,71,867/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank.

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 account 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 ₹48,71,867/- in 25 consecutive and equal monthly installments along with accruing interest and other Bank charges, if any. First of such installments shall be paid on or before 15.09.2024.

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

iii) If the petitioner pays the amount as directed above, any coercive proceedings against the petitioner will stand deferred.

Sd/-

N. NAGARESH

JUDGE

SR

APPENDIX OF WP(C) 22007/2024

PETITIONER'S EXHIBITS:

Exhibit P1	**A COPY OF THE DEMAND NOTICE DATED 17.05.2024.**
Exhibit P2	**A COPY OF THE NOTICE ISSUED UNDER RULE 81(D) BY THE 2ND RESPONDENT DATED 17.05.2024.**
Exhibit P3	**A COPY OF THE AUCTION NOTICE DATED 17.05.2024 ISSUED BY THE 2ND RESPONDENT.**
Exhibit P4	**A COPY OF THE REPRESENTATION BEFORE THE 3RD RESPONDENT DATED 07.06.2024**
Exhibit P5	**A COPY OF THE CIRCULAR DATED 07.06.2024 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES.**