

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

TUESDAY, THE 13<sup>TH</sup> DAY OF JUNE 2023 / 23RD JYAISHTA, 1945

WP(C) NO. 8487 OF 2023

**PETITIONER:**

PRASANAN. M.K.  
AGED 64 YEARS, S/O. LATE ACHUTHAN,  
PADINJARETHAYYIL HOUSE, PALAYAD. P.O.,  
DHARMADAM PANCHAYATH, THALASSERY TALUK,  
KANNUR DISTRICT., PIN - 670 661.

BY ADV NOBLE MATHEW

**RESPONDENTS:**

- 1 DHARMADAM SERVICE CO.OPERATIVE BANK LTD  
PALAYAD. P.O., THALASSERY TALUK,  
KANNUR DISTRICT, PIN - 670 661.  
REP. BY ITS SECRETARY.
- 2 ARBITRATOR/ASSISTANT REGISTRAR,  
DHARMADAM SERVICE CO.OPERATIVE BANK LTD., P  
ALAYAD. P.O., KANNUR DISTRICT., PIN - 670 661.
- 3 THE SPECIAL SALE OFFICER  
DHARMADAM SERVICE CO.OPERATIVE BANK LTD.,  
PALAYAD. P.O., THALASSERY TALUK,  
KANNUR DISTRICT., PIN - 670 661.
- 4 STATE OF KERALA  
REP. BY THE SECRETARY, CO.OPERATIVE DEPARTMENT,  
GOVT. SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695 001.

BY ADV M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
13.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

Petitioner had approached this Court challenging the proceedings taken by the respondent Bank to recover the amounts due in terms of the award in ARC No.354/2017.

2. The learned counsel appearing for the petitioner would submit that, as is evident from Ext.P3, the petitioner had been offered a One Time Settlement Scheme (OTS) under the "നവകേരളീയം കുടിശ്ശിക നിവാരണ പദ്ധതി -2023" and the petitioner may be permitted to pay the amount fixed in Ext.P3 within a short time.

3. The learned counsel appearing for the respondent Bank would submit that the writ petition has become infructuous, as, practically the only prayer sought for in the writ petition is to permit the petitioner to pay the amount mentioned in Ext.P3 on or before 31-05-2023. It is submitted that no amount has been paid on or before 31-05-2023 and that, since the amount mentioned as payable in Ext.P3 is in terms of the "നവകേരളീയം കുടിശ്ശിക നിവാരണ പദ്ധതി -2023", the petitioner cannot seek for any extension

of time, as that is the special One Time Settlement Scheme and the term of that scheme has already expired. It is pointed out that, the petitioner will lose the benefit of the scheme, if the amount is not paid within the time specified.

4. Having heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent Bank, I am of the opinion that the learned counsel for the respondent Bank is right in contending that the petitioner cannot seek for extension of time to pay amounts under a One Time Settlement scheme. It is settled by the recent decision of the Supreme Court that the High Court in exercise of jurisdiction under Article 226 of the Constitution of India cannot tinker with the terms on which a One Time Settlement had offered to a borrower and extend time for payment. It has been found that the borrower has to either accept the terms of One Time Settlement scheme as it is, or to forgo the benefits under the One Time Settlement scheme.

5. Faced with this situation, the learned counsel for the petitioner would submit that the petitioner may be

permitted to clear the entire liability within a period of one month from today.

6. The learned counsel for the respondent Bank submits that the petitioner can be granted one month time to clear the entire liability.

Accordingly, this writ petition will stand disposed of holding that the petitioner is not any longer entitled to the benefits of the One Time Settlement granted under Ext.P3 and directing that the petitioner shall be granted one month time from today to clear the entire liability. Any coercive proceedings initiated against the petitioner shall be kept in abeyance for the aforesaid period of one month. If the petitioner does not pay the amount within the aforesaid period of one month, it will be open to the respondent Bank to continue with any proceedings already initiated or to be initiated against the petitioner.

**Sd/-  
GOPINATH P.  
JUDGE**

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**APPENDIX OF WP(C) 8487/2023**

PETITIONER'S EXHIBITS

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| Exhibit P1 | PHOTOSTAT COPY OF THE REVENUE RECOVERY NOTICE DATED 6.1.2023 ISSUED BY THE 3RD RESPONDENT             |
| Exhibit P2 | TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT   |
| Exhibit P3 | TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED NIL RECEIVED BY THE PETITIONER ON 8/3/2023 |