

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 22ND DAY OF MAY 2023 / 1ST JYAISHTA, 1945

WP(C) NO. 14211 OF 2023

PETITIONER/S:

ABDUL LATHEEF M.

AGED 43 YEARS

S/O. IMRAN, MELARAKKAL HOUSE, AZAD NAGAR, TIRURANGADI
P.O., MALAPPURAM DISTRICT, PIN - 676306

BY ADV C.M.MOHAMMED IQUABAL

RESPONDENT/S:

- 1 THE KOTTAKKAL CO-OPERATIVE URBAN BANK LIMITED
HEAD OFFICE, KOTTAKKAL, KOTTAKKAL P.O., MALAPPURAM
DISTRICT, REPRESENTED BY ITS GENERAL MANAGER., PIN -
676503
- 2 THE MANAGER
KOTTAKKAL CO-OPERATIVE URBAN BANK LIMITED, CHEMMAD
BRANCH, TIRURANGADI P.O., MALAPPURAM DISTRICT, PIN -
676306
- 3 THE AUTHORIZED OFFICER
THE KOTTAKKAL CO-OPERATIVE URBAN BANK LIMITED, HEAD
OFFICE, KOTTAKKAL, KOTTAKKAL P.O., MALAPPURAM DISTRICT,
PIN - 676503

BY ADV DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22.05.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The writ petition is filed to set aside Ext.P16 sale notice issued by the 3rd respondent - Authorised Officer under Section 8(5) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act).

2. When the writ petition came up for consideration on 18.04.2023, this Court had directed the confirmation of sale, pursuant to Ext.P16 notice, to be deferred subject to the condition that the petitioner deposits an amount of Rs.25,00,000/- (Rupees Twenty five lakh only) within a period of three weeks.

3. Sri.Devaprasanth, the learned Standing Counsel appearing for the respondent submits that the petitioner has not complied with the above order.

In view of the fact that the petitioner has failed to comply with the conditional order passed by this Court,

and the law declared by the Honourable Supreme Court in South Indian Bank Ltd. & Ors. v. Naveen Mathew Philip & Anr. [2023 LiveLaw (SC) 320] I am not inclined to exercise the discretionary powers of this Court under Article 226 of the Constitution of India and further entertain the writ petition.

Resultantly, the writ petition is dismissed.

sd/-

C.S.DIAS
JUDGE

rkc/22.05.23

APPENDIX OF WP(C) 14211/2023

PETITIONER EXHIBITS

Exhibit-P1	THE TRUE COPY OF THE LOAN SANCTION LETTER ISSUED BY THE 1ST RESPONDENT BANK DATED 8.8.2019
Exhibit-P2	THE TRUE COPY OF THE RELEVANT PAGES OF THE PASSBOOK ISSUED BY THE 1ST RESPONDENT BANK DATED 26.8.2019
Exhibit-P3	THE TRUE COPY OF THE BASIC TAX RECEIPT ISSUED BY THE TIRURANGADI VILLAGE OFFICE DATED 16.5.2019
Exhibit-P4	THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE 2ND RESPONDENT DATED 31.3.2021
Exhibit-P5	THE TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 16.4.2021
Exhibit-P6	THE TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 21.4.2021
Exhibit-P7	THE TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT DATED 10.9.2021
Exhibit-P8	THE TRUE COPY OF THE STATEMENT OF THE 1ST RESPONDENT IN W.P.(C) NO.929/2022 DATED 20.01.2022
Exhibit-P9	THE TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C) NO.10373/2022 AND CONNECTED CASE DATED 08.03.2022
Exhibit-P10	THE TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 15.03.2022
Exhibit-P11	THE TRUE COPY OF THE JUDGMENT IN W.P.(C). NO. 11268/2022 OF THIS HON'BLE COURT DATED 01.04.2022

Exhibit-P12	THE TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 21.04.2022
Exhibit-P13	THE TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P(C).NO.15484/2022 DATED 31.08.2022
Exhibit-P14	THE TRUE COPY OF THE RELEVANT PAGE OF THE PASSBOOK OF LOAN ACCOUNT IS PRODUCED
Exhibit-P15	THE TRUE COPY OF THE SALE NOTICE ISSUED BY THE BANK DATED 22.02.2023
Exhibit-P16	THE TRUE COPY OF THE SALE NOTICE ISSUED BY THE BANK DATED 29.03.2023