

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 8TH DAY OF AUGUST 2014/17TH SRAVANA, 1936

WP(C).No. 20012 of 2014 (B)

PETITIONER :

MOHANAN V.,
VADAKKAYIL HOUSE,
CHEEKKOONU WEST P.O.,
KOZHIKODE DISTRICT, PIN-673507.

BY ADVS.SRI.SUBHASH SYRIAC
SMT.SHEEBA JOSEPH
SRI.BOBMY MATHEW KOOTHATTUKULAM

RESPONDENT(S) :

1. THE KOZHIKODE DISTRICT CO-OPERATIVE BANK,
REPRESENTED BY ITS CHIEF MANAGER, KOZHIKODE-673002.
2. THE BRANCH MANAGER, KUTTIADI BRANCH,
KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD., KUTTIADI
KOZHIKODE DISTRICT-673508.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
KOZHIKODE-673001.

R1 & R2 BY ADV. SRI.R.SUDHISH, SC
R3 BY SR. GOVT. PLEADER SRI. P.V. LONACHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-08-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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...2/-

WP(C).No. 20012 of 2014 (B)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1: COPY OF THE RECEIPT DATED 11.05.2013 ISSUED BY THE 2ND RESPONDENT.
- EXT. P2: COPY OF THE RECEIPT DATED 23.4.2014 ISSUED BY THE 2ND RESPONDENT.
- EXT. P3: COPY OF THE RECEIPT DATED 26.6.2014 ISSUED BY THE 2ND RESPONDENT.
- EXT. P4: COPY OF THE LIST PREPARED BY THE ADVOCATE COMMISSIONER ON 30.7.2014.
- EXT. P5: COPY OF THE DETAILS THE BALANCE AMOUNT CLAIMED BY THE RESPONDENTS 1 AND 2.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J

W.P(C) No. 20012 of 2014

Dated this the 8th day of August, 2014

J U D G M E N T

The petitioner is aggrieved by the recovery proceedings initiated against the residential property which admittedly, is mortgaged to the respondent Bank. The learned counsel appearing for the respondent Bank submits that the mortgage of the same property has been effected with respect to loans availed by two persons, the petitioner herein and one Sathyan. The symbolic possession of the property is taken over, for realisation of the debt, in Sathyan's account. Subsequently, when the petitioner's loan account also fell in default, the Bank proceeded against the property and took physical possession after dispossessing the petitioner from the premises. It is also submitted that as on today, the total amounts due in the loan account would be Rs.9,26,690/-.

2. The petitioner however, undertakes that the

entire amounts would be paid in installments if possession is given back to the petitioner. The Bank having taken possession of the premises, the same cannot be released without substantial payment being made. The petitioner undertakes that he would pay an amount of Rs.4,00,000/-(Rupees four lakhs only) today, itself. Hence, the said deposit shall be made on or before 11.08.2014. A further sum of Rs.75,000/- shall be paid within a week thereafter and on such payment, the respondent Bank shall restore the possession of the building to the petitioner herein.

3. The petitioner shall be permitted to pay off the balance amount in ten equal monthly installments starting from 10.10.2014 and followed up on the 10th of each succeeding months. If one default is committed, the petitioner shall surrender the property to the respondent Bank without demur. The respondent bank on such default, would be entitled to revive recovery proceedings from the stage at which it has been kept in abeyance.

The physical possession though handed over to the petitioner, the possession of the building shall be deemed to be that of the Bank. The learned counsel for the petitioner undertakes that the proceedings before the Debt Recovery Tribunal would be withdrawn within two weeks from today.

4. It is also made clear that the present judgment is only with respect to the petitioner herein and would not govern the proceedings initiated against the 3rd party namely Sathyan.

Writ petition disposed of .

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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//true copy//

P.A to Judge