IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

FRIDAY, THE 9TH DAY OF FEBRUARY 2024 / 20TH MAGHA, 1945

WP(C) NO. 43842 OF 2023

PETITIONER:

ABOOBACKER N.P.,
AGED 53 YEARS,
S/O ABDUL GAFOOR,
KOTTARATHIL PANNITTANDYIL HOUSE,
VATTIPURAM,
MANGATTIDAM, KANNUR, PIN – 670643

BY ADVS.
C.Y.VINOD KUMAR
K.G.RAJEESH

RESPONDENTS:

AUTHORIZED OFFICER,
CATHOLIC SYRIAN BANK LTD.,
GROUND FLOOR,
CM MATHEW & BROTHERS ARCADE,
CHAKKORATHUKULAM,
KOZHIKODE, PIN – 673006

BY ADV.
SRI.MADHU RADHAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 9th day of February, 2024

The petitioner has approached this Court aggrieved by the steps taken by the Catholic Syrian Bank Ltd. for recovery of financial advances given by them to the petitioner.

2. The petitioner has sought for the following reliefs:

> "i) Issue a writ of certiorari or any other appropriate writ, order or direction, calling for the records leading to Exts.P1 and P2 notices and quash the same.
> ii) Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent to permit the petitioner to repay the due amount as on today in 12 equal monthly installments.
> iii) This Hon'ble Court may be pleased to dispense with the production of English translation of Malayalam exhibits.
> iv) Grant such other and further relief as this Hon'ble Court deems fit and proper to grant in the facts and circumstances of this case."

3. When this writ petition came up for consideration, it is submitted by the petitioner that the Bank authorities have directed him to pay ₹25 lakhs by 30.01.2024. Today,

when the matter was taken up, it is submitted that no amount was paid by the petitioner.

4. I have heard the learned counsel for the petitioner and the learned Standing Counsel representing the respondent.

5. The grievance of the petitioner is relating to the proceedings initiated by the respondent under Sections 13 and 14 of the Securitisation Act and the attempt of the respondent to take over and sell the secured asset provided by the petitioner.

6. It is settled law that no writ would lie against the proceedings initiated by a financial institution under the provisions of the SARFAESI Act. In ***United Bank of India v. Satyawati Tondon and others*** *[(2010) 8 SCC 110]*, the Hon'ble Apex Court declared that no writ petition shall be entertained against the proceedings initiated under the SARFAESI Act at the instance of a defaulter since the statute provides for an efficacious alternate remedy.

7. In the judgment in ***Authorised Officer, State Bank of Travancore v. Mathew K.C.*** *[2018 (1) KLT 784],* the Hon'ble Apex Court reiterated that no writ petition would lie against the proceedings under the SARFAESI Act in view of the statutory remedy available under the said Act.

8. Following the judgment in ***Satyawati Tondon*** (supra), a Division Bench of this Court in the judgment in ***Anilkumar v. State Bank of India*** *[2020 (2) KLT 756]* declined to exercise jurisdiction under Article 226 of the Constitution of India against the proceedings initiated under the Securitisation Act.

9. In ***South Indian Bank Limited v. Naveen Mathew Philip*** *[2023 (4) KLT 29]*, the Apex Court held that when the legislature has provided a specific mechanism for appropriate redressal, the powers conferred under Article 226 of the Constitution of India shall be exercised only in extraordinary circumstances.

10. In Jayakrishnan A. v. Union Bank of India and others (W.P.(C) No.30803/2023), this Court held that writ

petition challenging any proceedings under the Securitisation Act is not maintainable since the aggrieved person has an effective and efficacious remedy before the Tribunal constituted under the Act which is competent to adjudicate the issues of fact and law, including statutory violations.

In the light of the categorical pronouncements of law made by the Apex Court and by this Court, the above writ petition is not maintainable and it is dismissed.

Sd/-

N. NAGARESH

JUDGE

SR

APPENDIX OF WP(C) 43842/2023

PETITIONER'S EXHIBITS:

Exhibit P1	**TRUE COPY OF THE POSSESSION NOTICE DATED 05/04/2023 ISSUED BY THE BANK**
Exhibit P2	**COPY OF THE NOTICE DATED 12/12/23 ISSUED BY THE ADVOCATE COMMISSIONER**