

Jayaraj E., vs Punjab National Bank, Palkulangara Branch Represented by Its Branch Manager,

Jayaraj E., vs Punjab National Bank, Palkulangara Branch Represented by Its Branch Manager,

SooperKanoon Citation : sooperkanoon.com/1295664

Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/21223/2023

Appellant : Jayaraj E.,

Respondent : Punjab National Bank, Palkulangara Branch Represented by Its Branch Manager,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH
THURSDAY, THE 29TH DAY OF FEBRUARY 2024/10TH PHALGUNA,
1945 WP(C) NO. 22841 OF 2022 PETITIONER: JAYARAJ ELLIAS,
AGED 52 YEARS, S/O ELLIAS, MEKKUMKARA VEEDU,
MELANTHIYOORKONAM, KOLLODE P. O, THIRUVANANTHAPURAM,
PIN - 695571 RESPONDENTS:

1 UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF MICRO SMALL AND MEDIUM ENTERPRISES, UDYOG BHAVAN, RAFI MARG, NEW DELHI, PIN - 110001 2 CHAIRMAN, CREDIT GUARANTEE FUND TRUST FOR MICRO AND SMALL ENTERPRISES, 1ST FLOOR, SIDBI, SWAVALAMBAN BHAVAN, C-11, G-BLOCK, BKC, BANDRA (EAST) MUMBAI, MAHARASHTRA -400 051., PIN - 400051 3 THE PUNJAB NATIONAL BANK, REPRESENTED BY ITS CHIEF MANAGER, CIRCLE OFFICE, MUTTATHARA, THIRUVANANTHAPURAM-695008, PIN - 695008 4 PUNJAB NATIONAL BANK, REPRESENTED BY ITS MANAGER, PALKULANGARA BRANCH, PALKULANGARA, THIRUVANANTHAPURAM, PIN - 695024 5 THE AUTHORIZED OFFICER, RECOVERY DEPARTMENT, PUNJAB NATIONAL BANK, CIRCLE OFFICE, MARKET ROAD, ERNAKULAM -682011. :2:

BY ADVS. SRI.S.MANU, DSGI SRI.SAJI.P.JOSEPH SRI.C.C.MATHEW SRI.G.MINI (PALATH) SRI.K.T.SAJU SRI.A.SEENA SRI.THANKARAJAN P.K. SRI.DEEPESH E.S SRI.DAYANA MATHEW THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.02.2024, ALONG WITH WP(C).21223/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :3:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH THURSDAY, THE 29TH DAY OF FEBRUARY 2024/10TH PHALGUNA, 1945 WP(C) NO. 21223 OF 2023 PETITIONER: JAYARAJ E., AGED 53 YEARS, S/O ALIAS, RESIDING AT MEKKUKKARA VEEDU, MELANTHIYOORKONAM, ANTHIYOORKONAM, KOLLODE P.O., MALAYINKEEZHU, THIRUVANANTHAPURAM, PIN - 695571 BY ADVS. R.N.SANDEEP B.MUHAMMED SHAHEEL KEERTHI VIJAYAN RESPONDENTS: 1 PUNJAB NATIONAL BANK, PALKULANGARA BRANCH REPRESENTED BY ITS BRANCH MANAGER, TC 29/1646-1, PALLIVILAKAM LN, NEAR CHEMBAKASHERI JUNCTION,

PERUNTHANNI, PALKULANGARA, THIRUVANANTHAPURAM, PIN - 695008 2 THE AUTHORIZED OFFICER, CHIEF MANAGER, PUNJAB NATIONAL BANK, CIRCLE OFFICE, MUTTATHARA, THIRUVANANTHAPURAM, PIN - 695026 :4: BY ADVS. SRI.SANTHEEP ANKARATH, SC, PUNJAB NATIONAL BANK SRI.SAJI.P.JOSEPH SRI.C.C.MATHEW SMT.G.MINI (PALATH) SMT.A.SEENA SRI.K.T.SAJU SRI.THANKARAJAN P.K. SRI.DEEPESH E.S THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29.02.2024, ALONG WITH WP(C).22841/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: :5:

JUDGMENT

Dated this the 29th day of February, 2024 [W.P.(C) Nos.22841 of 2022 and 21223 of 2023] Both the writ petitions are filed by the same petitioner. In these writ petitions, the petitioner is challenging the possession notice issued by the Punjab National Bank and the subsequent notice issued by the Advocate Commissioner pursuant to the orders passed by the Chief Judicial Magistrate's Court under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. It is settled proposition of law that if a borrower

has grievances relating to the proceedings issued under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the borrower :6: has to approach the Debts Recovery Tribunal invoking Section 17 of the Act, 2002 for redressal of grievance. The writ petition is not ordinarily maintainable against the steps taken by the Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In the circumstances, I dismiss the writ petitions granting liberty to the petitioner to approach the Debts Recovery Tribunal in the pending O.A. No.564 of 2019. Sd/- N. NAGARESH JUDGE SR :7: APPENDIX OF WP(C) 22841/2022 PETITIONER'S EXHIBITS: Exhibit P1 A TRUE COPY OF THE UDAYAM

REGISTRATION CERTIFICATE ISSUED TO THE PETITIONER BY THE MINISTRY OF MICRO AND SMALL ENTERPRISES BEARING NO. UDYAM-KL-12-0008655 DATED 22.02.2021 Exhibit P2 A TRUE COPY OF THE RELEVANT PAGES OF THE PROJECT REPORT SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT Exhibit P3 A TRUE COPY OF THE LOAN SANCTION LETTER DATED 20.02.2014 ISSUED BY THE PUNJAB NATIONAL BANK, PALKULANGARA BRANCH TO THE PETITIONER Exhibit P4 A TRUE COPY OF THE POSSESSION NOTICE AS PER SECTION 13 (4) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 (SARFAESI ACT) DATED 03.11.2018

Exhibit P5 A TRUE COPY OF THE NOTICE DATED 29.06.2022 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER Exhibit P6 A TRUE COPY OF THE REPRESENTATION DATED 08.07.2022 PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT Exhibit P7 A TRUE COPY OF THE POSTAL RECEIPT DATED 08.07.2022 ISSUED BY THE POSTAL DEPARTMENT Exhibit P8 A TRUE COPY OF THE REPRESENTATION

DATED 08.07.2022 PREFERRED BY THE PETITIONER BEFORE THE 3RD RESPONDENT / CHIEF MANAGER CIRCLE OFFICE OF THE PUNJAB NATIONAL BANK Exhibit P9 A TRUE COPY OF THE POSTAL RECEIPT DATED 08.07.2022 ISSUED BY THE POSTAL DEPARTMENT :8: Exhibit P10 A TRUE COPY OF THE REPRESENTATION DATED 08.07.2022 PREFERRED BY THE PETITIONER BEFORE THE 5TH RESPONDENT / AUTHORIZED OFFICER OF THE RECOVERY SECTION OF THE PUNJAB NATIONAL BANK Exhibit P11 A TRUE COPY OF THE POSTAL RECEIPT DATED 08.07.2022 ISSUED BY THE POSTAL DEPARTMENT Exhibit P12 A TRUE COPY OF THE REPRESENTATION DATED 08.07.2022 PREFERRED BY THE PETITIONER BEFORE THE 4TH RESPONDENT / MANAGER PALKULANGARA BRANCH OF THE PUNJAB NATIONAL BANK

Exhibit P13 A TRUE COPY OF THE POSTAL RECEIPT DATED 08.07.2022 ISSUED BY THE POSTAL DEPARTMENT EXHIBIT P14 A TRUE COPY OF THE

SCHEME DOCUMENT OF THE CGTMSE SCHEME. :9: APPENDIX OF WP(C)
21223/2023 PETITIONER'S EXHIBITS: Exhibit P1 TRUE COPY OF THE LETTER
ISSUED BY THE 2ND RESPONDENT DATED 11/01/2023 TO THE PETITIONER
Exhibit P2 TRUE COPY OF THE SALE AGREEMENT DATED WITH A BUYER
Exhibit P3 THE TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER DATED

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