

Thomas Nectar vs Kerala Bank, Represented by the Authorised Officer

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Court : Kerala

Decided On : May-20-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/12276/2024

Appellant : Thomas Nectar

Respondent : Kerala Bank, Represented by the Authorised Officer

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY,
THE 20TH DAY OF MAY 2024 / 30TH VAISAKHA, 1946 WP(C) NO.
12276 OF 2024 PETITIONER: THOMAS NECTAR AGED 36 YEARS
S/O. ALEX P J, PADAMADAN HOUSE, THURUTHUR,
PUTHENVELIKARA PO, ERNAKULAM, PIN - 683594 BY ADVS.
AMJATHA D.A. FARHANA K.H. RESPONDENTS:

1 KERALA BANK, REPRESENTED BY THE AUTHORISED OFFICER
REGIONAL OFFICE, SAHAGARANA SATHABDTHI MANDIRAM,
KOVILATHUMPADAM P.O, THIRUVAMBADY, THRISSUR, PIN -
680022 2 THE AUTHORISED OFFICER KERALA BANK, NORTH

PARAVUR MAIN BRANCH, MAIN ROAD, NORTH PARAVUR, ERNAKULAM, PIN - 683513 3 THE BRANCH MANAGER KERALA BANK, PUTHENVELIKKARA BRANCH, C S COMPLEX, PUTHENVELIKKARA, ERNAKULAM, PIN - 683594 BY ADV K.AMMINIKUTTY-R1 TO R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 20th day of May, 2024

The petitioner, who has availed a Business Loan of 10 lakhs from the 1st respondent-Bank, approached this Court seeking the following reliefs:- i) To issue a writ of certiorari or any other appropriate writ, order or direction, calling for the records leading up to quash Exhibit P1 and all proceedings pursuant thereto.

(ii) Issue a writ of mandamus or any appropriate writ, order or direction, directing the respondent to regularize the loan account by giving installments for the overdue amount.

2. It is evident from the pleadings that the petitioner is before this Court aggrieved by Ext.P1 Sale Notice issued by the Bank invoking the provisions of the Securitisation and Security Interest Act, 2002.

3. It is settled law that no writ would ordinarily lie against the proceedings initiated by a financial institution under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,

2002. In *United Bank of India v. Satyawati Tondon and others* [(2010) 8 SCC 110], the Honble Apex Court declared that no writ petition shall be entertained against the proceedings initiated under the Securitisation and Security Interest Act, 2002

at the instance of a defaulter since the statute provides for an efficacious alternate remedy.

4. In the judgment in *Authorised Officer, State*

Bank of Travancore v. Mathew K.C. [2018 (1) KLT 784], the Honble Apex Court reiterated that no writ petition would lie against the proceedings under the Securitisation and Security Interest Act, 2002 in view of the statutory remedy available under the said Act.

5. 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.

6. 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.

7. 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 hmh APPENDIX OF WP(C) 12276/2024 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE SALE NOTICE DATED 14.02.2024