

Sambasivan vs the Punalur Primary Co-Operative Agricultural and Rural Development Bank Ltd No.Q-1644

Sambasivan vs the Punalur Primary Co-Operative Agricultural and Rural Development Bank Ltd No.Q-1644

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Court : Kerala

Decided On : Jan-27-2020

Judge : Honourable Dr. Justice a.K.Jayasankaran Nambiar

Appeal No. : WP(C)/31283/2019

Appellant : Sambasivan

Respondent : The Punalur Primary Co-Operative Agricultural and Rural Development Bank Ltd No.Q-1644

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR MONDAY, THE 27TH DAY OF JANUARY 2020/7TH MAGHA, 1941 W.P(C).No.31283 OF 2019(I) PETITIONER: SAMBASIVAN AGED 60 YEARS S/O PAPPU, DEVAKI SADANAM, THENMALA P.O., THENMALA VILLAGE, PUNALUR TALUK, KOLLAM DISTRICT- 691 308 BY ADVS.SRI.MANU RAMACHANDRAN SRI.M.KIRANLAL SRI.R.RAJESH (VARKALA) SRI.T.S.SARATH SHRI.AJAY JAYACHANDRAN RESPONDENT: 1 THE PUNALUR PRIMARY CO-

OPERATIVE AGRICULTURAL & RURAL DEVELOPMENT BANK LTD,
NO.Q-1644, PUNALUR, THOLICODE P.O, KOLLAM DISTRICT - 691
333 2 THE SPECIAL SALE OFFICER OFFICE OF THE SPECIAL SALE
OFFICER, THE PUNALUR PRIMARY CO-OPERATIVE
AGRICULTURAL & RURAL DEVELOPMENT BANK LTD, NO.Q-1644,
PUNALUR, THOLICODE P.O, KOLLAM DISTRICT - 691 333 R1 BY
ADV. SRI.PHILIP T.VARGHESE R1 BY ADV. SRI.THOMAS
T.VARGHESE R1 BY ADV. SMT.ACHU SUBHA ABRAHAM BY
SRI.BIMAL K. NATH, SR. GOVT. PLEADER THIS WRIT PETITION
(CIVIL) HAVING BEEN FINALLY HEARD ON 27.01.2020, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:
W.P.(C).No.31283/2019 :: 2 ::

JUDGMENT

The petitioner, who had availed four loans from the 1st respondent bank, defaulted in repayment of the same. The Society therefore initiated proceedings for recovery through the filing of an ARC before the Co-operative Arbitration Court. The said proceedings culminated in an award passed against the petitioner. It is when the award was sought to be executed that the petitioner approached this Court with the present writ petition.

2. At the time of admission, this Court, taking note of the

plea of financial hardship urged on behalf of the petitioner, granted a stay of recovery proceedings on condition that the petitioner paid an amount of Rs.50,000/- within two weeks from 19.11.2019. It is not in dispute that the petitioner has since complied with the said order and paid the amount aforesaid. The learned counsel for the respondent bank would submit that the overdue amount in respect of the loans availed by the W.P.(C).No.31283/2019 :: 3 :: petitioner, as on 12.12.2019, is Rs.3,79,063/-. I also note that, on an average, the petitioner has to pay an amount of Rs.20,000/- towards EMIs for the four loans aforementioned. Taking note of the overall situation as also the plea of financial hardship urged on behalf of the petitioner, I dispose the writ petition with the following directions:

(i) If the petitioner pays the amount of Rs.3,79,063/-

together with accrued interest and other charges with effect from 12.12.2019 till the date of payment, in ten equal and successive monthly installments commencing from 10.02.2020, and continues to keep up the regular instalment payments as per the original loan schedule in all the four loan accounts, then further proceedings for recovery as against the petitioner shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a

default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

(iii) It is further made clear that inasmuch as it is in exceptional cases that this Court would grant the reliefs aforementioned, no further petition for W.P.(C).No.31283/2019 :: 4 ::

modification/extension of time will be entertained. I also make it clear that nothing in this judgment shall prevent the petitioner from availing the benefit of any One Time Settlement Scheme that is in vogue in the respondent bank, and if the petitioner prefers an application for the same, it shall be considered in accordance with the Scheme by the respondent bank.

Sd/- A.K.JAYASANKARAN NAMBIAR JUDGE prp/27/1/2020 APPENDIX
PETITIONER'S EXHIBITS: EXHIBIT P1 THE TRUE COPY OF THE LOAN ACCOUNT PASSBOOK OF THE LOAN ACCOUNT NO.NRHS-6927/14 FOR AN AMOUNT OF RS.5,000,00/- (RUPEES FIVE LAKHS ONLY) EXHIBIT P2 THE TRUE COPY OF THE COMMON LOAN ACCOUNT PASSBOOK OF THE LOAN ACCOUNT NO.LDS-2056 WHICH IS FOR AN AMOUNT OF RS.1,000,00/- AND HSF- EXHIBIT P3 THE TRUE COPY OF THE LOAN ACCOUNT PASSBOOK OF THE LOAN ACCOUNT NO.BLS-1858/2016 FOR AN AMOUNT OF RS.2,000,00/-.

EXHIBIT P4 THE TRUE COPY OF THE DISCHARGE SUMMERY OF THE

PETITIONER'S WIFE DATED 12.06.2019 FROM SREE CHITRA TIRUNAL
INSTITUTE OF MEDICAL SCIENCES AND TECHNOLOGY,
THIRUVANANTHAPURAM. EXHIBIT P5 THE TRUE COPY OF THE NOTICE
DATED 18.10.2019 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
RESPONDENTS EXHIBITS: NIL. //TRUE COPY// P.S. TO JUDGE

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