IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

MONDAY, THE 7TH DAY OF APRIL 2025 / 17TH CHAITHRA, 1947

WA NO. 662 OF 2025

AGAINST THE JUDGMENT DATED 19.2.2025 IN WP(C) NO.42673 OF 2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER IN THE WRIT PETITION:

UTHAMAN K.N.,
AGED 55 YEARS, S/O. NARAYANAN K.V., KELAMPARAMBIL HOUSE, ARIMBUR P.O., THRISSUR, PIN – 680 620

BY ADVS.
GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
LIJO JOHN THAMPY
MANU SRINATH
NIVEDITA MUCHILOTE

RESPONDENTS/RESPONDENTS IN THE WRIT PETITION:

1. **THE SOUTH INDIAN BANK LTD.,**
   REPRESENTED BY ITS CHIEF MANAGER, REGIONAL OFFICE, FIRST FLOOR, PLATINUM JUBILEE BUILDING, CIVIL LANE ROAD, AYYANTHOLE, THRISSUR, PIN – 680 006

2. **THE AUTHORISED OFFICER,**
   THE SOUTH INDIAN BANK LTD., REGIONAL OFFICE, FIRST FLOOR, PLATINUM JUBILEE BUILDING, CIVIL LANE ROAD, AYYANTHOLE, THRISSUR, PIN – 680 006

3. **POYYARA BALAN VIJIL @ VIJIL P.V.,**
   AGED 53 YEARS, S/O. BALAN, POYYARA HOUSE, MATHILAKAM P.O., THRISSUR, PIN – 680 685

4 SINI NARAYANAN @ SINI VIJIL,
THOTTUPURA HOUSE, MANALOOR, KANJANY P.O.,
THRISSUR, PIN – 680 612

5 UNION OF INDIA,
REPRESENTED BY SECRETARY TO THE DEPARTMENT OF LAW, JUSTICE AND LEGISLATIVE AFFAIRS, C-WING, DELHI SECRETARIAT. I.P. ESTATE, NEW DELHI, PIN – 110 001

SRI. P.A. AUGUSTINE (AREEKATTEL)
SRI. S. BIJU, SCGC

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 7th day of April, 2025

Nitin Jamdar, C.J.

Heard Mr. George Varghese (Perumpallikuttiyil), learned counsel for the Appellant and Mr. P.A. Augustine (Areekattel), learned counsel for the Respondent Bank.

2. The Appellant's case as a tenant is based on the deeds of transfer executed by the landlord with a third party which document is the basis on which the Respondent Bank has extended the loan facility to the Appellant's landlord. The Appellant relies on two such deeds of transfer. The Appellant, however, does not have a written agreement of lease in his favour. It is the contention of the Appellant that the Appellant can from these documents and supporting evidence, establish his claim of tenancy in existence prior to the mortgage of the property.

3. The learned counsel for the Appellant makes a grievance that the writ petition was dismissed on merits without consideration of the Appellant's case on facts based on the documents. At the most the Appellant could have been directed to avail the remedy of either approaching the Debt Recovery Tribunal or a civil court as the case may be. He submitted that neither the issue is kept open to be considered in the petition for an alternate remedy nor the matter is considered on merits in detail. In these circumstances, the appropriate course of action is to relegate the Appellant to these remedies available, without entering into the merits of the case.

4. That being the position, we dispose of the appeal making it clear that if the Appellant avails the statutory remedies as are available or approaches the civil court, then all contentions of the parties are kept open.

Sd/-
Nitin Jamdar
Chief Justice

Sd/-
S. Manu
Judge

vpv