



2024:KER:62537

W.P.(C) No.28461/2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 13TH DAY OF AUGUST 2024 / 22ND SRAVANA, 1946

WP(C) NO. 28461 OF 2024

PETITIONER:

DEVASSYKUTTY,
AGED 56 YEARS,
S/O GABRIEL,
CHAKKALAKKAL MALAPALLIPURAM,
PALLIPURAM, THRISSUR, PIN - 680732

BY ADV.M.VISHNUPRIYA

RESPONDENTS:

- 1 CHAIRMAN & MANAGING DIRECTOR,
KERALA STATE FINANCIAL ENTERPRISES,
P.B.NO 510, BHADRATHA,
MUSEUM ROAD,
THRISSUR, PIN - 680020
- 2 BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISES,
KODUNGALLOOR BRANCH, THRISSUR, PIN - 680664
- 3 AJMAL BABU,
AGED 54 YEARS,
S/O BEERAVU, VELUTHAKADAVUKARAN HOUSE,
VALIYAPARAMBU, MALA P.O.,
THRISSUR DISTRICT, PIN - 680732

BY ADV.SRI.ARUN ANTONY, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 13.08.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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JUDGMENT

Dated this the 13th day of August, 2024

The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of Chitty Loans made by the Kerala State Financial Enterprises to the 3rd respondent, invoking the provisions of the Revenue Recovery Act, 1890.

2. The petitioner stood as surety with respect to two Chitty Loans availed by the 3rd respondent from the 2nd respondent - Kerala State Financial Enterprises in the years 2021 and 2022. The petitioner states that though the 3rd respondent made remittances promptly during the initial repayment period of the chitty loan, he could not pay the subscriptions promptly later. The repayment of chitty loan fell into arrears later. It happened due to reasons beyond the control of the petitioner.

3. Though the petitioner requested the 2nd respondent to permit the petitioner to repay the outstanding



amounts in easy monthly instalments, the 2nd respondent was not yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Revenue Recovery Act, 1890 and issued Ext.P5 notice.

4. The petitioner states that he is still in a position to clear the outstanding amounts towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If respondents 1 and 2 are permitted to continue with the coercive proceedings and auction the secured assets provided by the petitioner, he will be put to untold hardship and loss.

5. Standing Counsel entered appearance on behalf of respondents 1 and 2 and denied all the statements made by the petitioner. On behalf of respondent 1 and 2, it is submitted that the chitty loans were given to the petitioner in the years 2021 and 2022. The petitioner committed default in repaying the loans.

6. The 2nd respondent repeatedly reminded the petitioner and required him to clear the dues. The petitioner



deliberately omitted to do so. In the circumstances, the 2nd respondent had no other go, than to proceed against the petitioner invoking the provisions of the Revenue Recovery Act, 1890. The impugned Ext.P5 notice was issued in these circumstances. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the 2nd respondent.

7. The Standing Counsel, however, submitted that if the petitioner is ready and willing to make a substantial payment soon and remit the balance outstanding amount immediately thereafter, a short breathing time can be granted to the petitioner to clear the dues. The Standing Counsel submitted that the outstanding amount due to the 2nd respondent from the petitioner as on 13.08.2024 is ₹27,24,900/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing respondents 1 and 2.

9. The specific case of the petitioner is that the petitioner has been making the repayment and maintaining



the chitty loan account initially. The default in repayment of chitty occurred lately due to reasons beyond the control of the petitioner. The petitioner has provided substantial security which will safeguard the interest of the 2nd respondent.

10. In the facts and circumstances of the case, I am inclined to dispose of the writ petition giving a short and reasonable time to the petitioner to clear off the liability.

11. The writ petition is therefore disposed of with the following directions:

(i) The petitioner shall remit the outstanding amount of ₹27,24,900/- in 15 consecutive and equal monthly installments along with accruing interest and other administrative charges, if any. First of such installments shall be paid on or before 13.09.2024.

(ii) If the petitioner commits default in making payments as directed above, the 2nd respondent will be at liberty to continue with coercive proceedings against the petitioner



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in accordance with law.

(iii) If the petitioner pays the amount as directed above, any coercive proceedings against the petitioner will stand deferred.

Sd/-
N. NAGARESH
JUDGE

SR



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APPENDIX OF WP (C) 28461/2024

PETITIONER'S EXHIBITS:

Exhibit P1	TRUE COPY OF THE DEMAND NOTICE REGARDING THE PAYMENT OF CHITTY NO.78/2021/A/1 (CHITAL NO.07) DATED 25.1.2024
Exhibit P2	TRUE COPY OF THE DEMAND NOTICE REGARDING THE PAYMENT OF CHITTY NO.9/2022/A/1 (CHITAL NO.21) DATED 20.7.2023
Exhibit P3	TRUE COPY OF THE REQUEST SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 2ND RESPONDENT DATED 22.5.2023
Exhibit P4	TRUE COPY OF THE JUDGMENT DATED 26.3.2024 IN WPC NO.9316/2024
Exhibit P5	TRUE COPY OF THE NOTICE DATED 28.11.2023 ISSUED BY THE 2ND RESPONDENT.