

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 30TH DAY OF NOVEMBER 2017/9TH AGRAHAYANA, 1939

WP(C) .No. 39002 of 2016 (A)

PETITIONER:

SRI.MUTHUPANDI R., AGED 48 YEARS,
SON OF SRI.M.RAJAMANI, KURUSHADIYIL HOUSE,
CHUNDAL-PANIAR ESTATE (POST),
DEVIKULAM (VIA), IDUKKI DISTRICT, PIN-685613.

BY ADVS.SRI.ANIL S.RAJ
SMT.K.N.RAJANI
SRI.RADHIKA RAJASEKHARAN P.
SMT.ANILA PETER
SRI.S.SUDHEESH

RESPONDENTS:

1. THE AUTHORIZED OFFICER,
IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, P.B. NO.2, IDUKKI COLONY P.O.,
IDUKKI-685602.
2. IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
POOPPARA BRANCH, SHANATHANPARA ROAD,
POOPPARA-685612, REPRESENTED BY ITS SECRETARY.

*ADDL. R3 IMPEADED

3. SRI.R.ANNADURAI, AGED 62 YEARS,
SON OF SRI.M.RAJAMANI, KURUSHADIYIL HOUSE,
CHUNDAL-PANNIAR ESTATE (POST),
DEVIKULAM (VIA), IDUKKI DISTRICT, PIN-685613.

ADDL. R3 IS IMPEADED AS PER ORDER
DATED 13.01.2017 IN IA.618/2017.

R1 & R2 BY SRI.LIGI.J.VADAKKEDOM, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-11-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

mbr/

WP(C) .No. 39002 of 2016 (A)

APPENDIX

PETITIONERS' EXHIBITS:

EXHIBIT P1- TRUE COPY OF RECEIPT SLIP NO.470 EVIDENCING
PAYMENT OF RS.40,000/- DATED 18/3/2013.

EXHIBIT P2- TRUE COPY OF RECEIPT SLIP NO.633 EVIDENCING
PAYMENT OF RS.36,000/- DATED 22/3/2013.

EXHIBIT P2 (A) - TRUE COPY OF RECEIPT SLIP NO.634 EVIDENCING
PAYMENT OF RS.100/- DATED 22/3/2013.

EXHIBIT P3- TRUE COPY OF PHOTOGRAPHS.

EXHIBIT P4- TRUE COPY OF ADVERTISEMENT DATED 1/10/2016.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

SHAJI P. CHALY, J.

W.P.(C). No. 39002 OF 2016

Dated this the 30th day of November, 2017

JUDGMENT

Petitioner availed a housing loan from the respondent bank in the year 2008. According to the petitioner, the entire amount sanctioned was not released to the petitioner. Some amounts were paid, however, due to unforeseen circumstances, petitioner could not repay the amount in accordance with the terms of the agreement, consequent to which action was initiated and to put it short, after complying with procedures, the mortgaged property was purchased by a third person and the only thing remains to be considered is confirmation of sale. It is at that point of time, petitioner has filed this writ petition.

2. When the matter has come up before this Court, the confirmation of the sale was deferred on condition that petitioner pays an amount of Rs. 50,000/- on or before 31.12.2016. I am informed that the said interim order is complied with by the petitioner. Even

though notice is served on the additional third respondent i.e., the purchaser of the property, there is no appearance.

3. I have heard learned counsel for the petitioner, learned Standing Counsel appearing for the bank and perused the pleadings and the documents on record.

4. Since the petitioner volunteered to pay the entire amount on or before 31.12.2017, I am of the considered opinion that, since the petitioner being the owner of the property, a leniency can be taken in this matter. In that view of the matter, there will be a direction to the petitioner to pay the entire amount outstanding inclusive of the accrued interest and cost, on or before 31.12.2017, along with 5% of the auction amount to pay the same to the additional third respondent. The respondent bank shall also take immediate steps to return the amount to the additional third respondent, along with 5% of the auction amount deposited by the petitioner. In the event, petitioner is

failing to comply with the directions issued by this Court, it is for the bank to proceed, in accordance with law, and confirm the sale in favour of the third respondent.

The writ petition is disposed of, accordingly.

SHAJI P. CHALY
JUDGE

DCS