

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR.JUSTICE N.NAGARESH**

**WEDNESDAY, THE 31<sup>ST</sup> DAY OF JANUARY 2024 / 11TH MAGHA, 1945**

**WP(C) NO. 3391 OF 2024**

**PETITIONER:**

**SHAFEER.V.M  
AGED 38 YEARS  
S/O MOHAMMED,VALIYAVEETIL, 237,  
WEST JAMIYA.P.O.MADAVANA,  
THRISSUR DISTRICT., PIN - 680666**

**BY ADVS.  
K.S.RAJESH  
M.SHAJU PURUSHOTHAMAN**

**RESPONDENTS:**

- 1 THE KODUNGALLUR TOWN CO-OPERATIVE BANK LTD  
NO:102, CHATHEDATHUPARAMBU BRANCH, P.O.  
KODUNGALLUR, THRISSUR DISTRICT,  
REPRESENTED BY IT'S MANAGER., PIN - 680664**
- 2 THE AUTHORISED OFFICER  
THE KODUNGALLUR TOWN CO-OPERATIVE BANK  
LTD,NO:102, HEAD OFFICE,P.O.KODUNGALLUR,  
THRISSUR DISTRICT., PIN - 680664**

**BY ADV V.M. KRISHNAKUMAR, STANDING COUNSEL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 31.01.2024, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:**

## **JUDGMENT**

Dated this the 31<sup>st</sup> day of January, 2024

The petitioner has approached this Court aggrieved by the coercive proceedings for recovery of financial advance made by the Kodungallur Town Co-operative Bank Limited to the petitioner, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. The Bank paid ₹10 lakhs to the petitioner as Housing Loan in the year 2017. The petitioner states that though the petitioner made remittances promptly during the initial repayment period of the financial advance, he could not pay the repayment instalments promptly later due to Covid-19 pandemic. The repayment of loan fell into arrears later. It happened due to reasons beyond the control of the petitioner.

3. Though the petitioner requested the Bank to permit the petitioner to repay the overdue amounts in easy monthly

instalments, the Bank authorities were not yielding. The authorities, instead, started coercive proceedings, invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Security Interest (Enforcement) Rules, 2002.

4. The petitioner states that he is still in a position to clear the overdue amounts towards the loan, if sufficient time is given to clear the dues in easy monthly instalments. If the respondents 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 the Bank and denied all the statements made by the petitioner. On behalf of the respondents, it is submitted that the loan was given to the petitioner in the year 2017. The petitioner committed default in repaying the loan.

6. The Bank repeatedly reminded the petitioner and required him to clear the dues. The petitioner deliberately

omitted to do so. In the circumstances, the Bank had no other go than to proceed against the petitioner invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner has not advanced any legal reasons to thwart the coercive proceedings initiated by the Bank.

7. The Standing Counsel, however, submitted that if the petitioner is ready and willing to make a substantial payment soon and remit the balance overdue 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 Bank from the petitioner as on 31.01.2024 is ₹11,20,036/- and the overdue amount as on 31.01.2024 is ₹2,05,029/-.

8. I have heard the counsel for the petitioner and the Standing Counsel representing the Bank.

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

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

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 overdue amount of ₹2,05,029/- in six consecutive and equal monthly instalments along with accruing interest and other Bank charges, if any. First of such instalments shall be paid on or before 01.03.2024.

(ii) If the petitioner commits single default in making payments as directed above, the respondents will be at liberty to continue with

the coercive proceedings against the petitioner in accordance with law.

(iii) The petitioner shall also pay current EMIs along with the aforesaid payments.

(iv) If the petitioner makes payments as directed above, coercive proceedings, if any, against the petitioner shall stand deferred.

**Sd/-**

**N.NAGARESH**

**JUDGE**

spk

WP(C) No.3391 of 2024

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**APPENDIX OF WP(C) 3391/2024**

**PETITIONER EXHIBITS**

<b>Exhibit P1</b>	<b>A TRUE COPY OF THE STATEMENT DATED 28.11.2022 ISSUED BY THE 1ST RESPONDENT WITH RESPECT TO THE LOAN AVAILED BY THE PETITIONER</b>
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