

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

**PRESENT**

**THE HONOURABLE MRS. JUSTICE SOPHY THOMAS**

**WEDNESDAY, THE 31<sup>ST</sup> DAY OF JULY 2024 / 9TH SRAVANA, 1946**

**OP(C) NO. 1636 OF 2024**

**IN OS NO.1319 OF 2024 OF PRINCIPAL MUNSIF COURT, THRISSUR**

**PETITIONER/PETITIONER/PLAINTIFF:**

M/S. AVARAN ASSOCIATES,  
REPRESENTED BY MANAGING PARTNER ROBY  
AGED 58 YEARS  
S/O. AVARAN MATHEW, RESIDING AT 'AVARAN' HOUSE,  
RAILWAY STATION ROAD, MUKUNDAPURAM TALUK,  
IRINJALAKKUDA VILLAGE & DESOM,  
P.O. IRINJALAKKUDA, THRISSUR DISTRICT, PIN - 680121  
BY ADV S.S.ARAVIND

**RESPONDENTS/RESPONDENTS/DEFENDANTS:**

- 1 NABEESA  
AGED 53 YEARS  
W/O. PAREETH, ARANGATHU PARAMBIL, THALAPPILLY TALUK,  
KUMARANELLUR VILLAGE & DESOM, P.O. KUMARANELLUR,  
THRISSUR, PIN - 680590
- 2 M.M. PAREETH  
AGED 58 YEARS  
S/O. A.P.R. MAIDU, ARANGATHU PARAMBIL, THALAPPILLY  
TALUK, KUMARANELLUR VILLAGE & DESOM, P.O.  
KUMARANELLUR, THRISSUR, PIN - 680590
- 3 MANAGER, STATE BANK OF INDIA  
VADAKKANCHERY BRANCH, OTTUPARA, VADAKKANCHERY DESOM,  
VADAKKANCHERY P.O, THALAPPILLY TALUK, THRISSUR,  
PIN - 680592
- 4 CHIEF MANAGER AND AUTHORISED OFFICER, STATE BANK OF  
INDIA, A.R.M.B., ERNAKULAM BRANCH, P..B. NO. 4261,  
S.B.T. BHAVAN, PANAMPILLY NAGAR, ERNAKULAM DESOM,  
ERNAKULAM, PIN - 682036  
SRI.JITHESH MENON, SC

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 31.07.2024,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

This petition is at the instance of the plaintiff in O.S.No.1319 of 2024 on the file of Munsiff Court, Thrissur, seeking a relief of *status quo*, until he obtains copy of order in I.A.No.7 of 2024.

2. The petitioner filed O.S.No.1319 of 2024, for declaration of his tenancy right over the property of respondents 1 and 2 which the respondents 3 and 4 - ie; State Bank of India is proceeding against, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act (SARFAESI Act).

3. According to the petitioner, he is a tenant in that premises from 2015 onwards and he is running a two wheeler showroom in that property. There are more than thirty staff working there, and he is keeping hundreds of bikes in that premises. In O.S.No.1319 of 2024 respondents 3 and 4 - State Bank of India filed I.A.No.7 of 2024 challenging the maintainability of the suit filed by the petitioner.

4. Learned Munsiff allowed that petition and found that the suit was not maintainable, and hence it was dismissed.

Petitioner has applied for certified copy of that order, but it is not yet obtained. He is not disputing the fact that, Civil Court is not the proper forum to workout his remedies if any, as a tenant in the premises against which SARFAESI proceedings are initiated. He is proposing to approach the Debt Recovery Tribunal for appropriate relief. Before that, if the Bank proceeds to take possession of the tenanted premises, he will be put to irreparable loss and hardship.

5. Considering the nature of relief claimed in this petition, notice to respondents 1 and 2 dispensed with. Heard learned counsel for the petitioner and learned counsel for respondents 3 and 4.

6. Learned counsel for respondents 3 and 4 – the Bank submitted that, proceedings are in progress for taking possession of the secured assets under the SARFAESI Act, over which the petitioner herein is claiming tenancy right.

7. The petitioner is at liberty to workout his remedies before appropriate forum. Learned counsel for respondents 3 and 4 is amenable for postponing taking over possession of the secured assets for a period of ten days. So taking over possession of the secured asserts by respondents 3 and 4,

under the SARFAESI Act will be kept in abeyance for a period of ten days from today.

With this direction, above O.P(C) is disposed of.

**Sd/ -**

**SOPHY THOMAS**

**JUDGE**

**MC/1.08**

**APPENDIX OF OP(C) 1636/2024**

## PETITIONER EXHIBITS

Exhibit-P1	TRUE COPY OF THE LEASE AGREEMENT DATED 06/03/2015
Exhibit-P2	TRUE COPY OF THE LICENSE ISSUED BY THRISSUR MUNICIPALITY DATED 26/05/2015
Exhibit-P3	TRUE COPY OF THE PROFESSIONAL TAX RECEIPT DATED 13/02/2023
Exhibit-P4	TRUE COPY OF THE TRADE CERTIFICATE FROM 20/06/2015 VALID UP TO 18/09/2028 ISSUED BY KERALA MOTOR VEHICLE DEPARTMENT TO THE PETITIONER DATED 22-05-2024
Exhibit-P5	TRUE COPY OF THE REGISTRATION CERTIFICATE UNDER KERALA SHOPS AND COMMERCIAL ESTABLISHMENT ACT BEARING NO. SH080250100073 DATED 12-04-2017
Exhibit-P6	TRUE COPY OF THE DEALERSHIP LETTER DATED 02/03/2015 ISSUED BY PIAGGIO VEHICLES PVT LTD
Exhibit-P7	TRUE COPY OF THE O.S. NO. 1319/2024 FILED BY THE PETITIONER BEFORE THE MUNSIFF COURT, THRISSUR DATED 28/06/2024
Exhibit-P8	TRUE COPY OF THE IA NO.02/2024 IN O.S. NO. 1319/2024 FILED BY THE PETITIONER BEFORE THE MUNSIFF COURT, THRISSUR DATED 28/06/2024
Exhibit-P9	TRUE COPY OF THE IA NO.7/2024 IN O.S. NO. 1319/2024 FILED BY THE 4TH RESPONDENT BEFORE THE MUNSIFF COURT, THRISSUR DATED 11-07-2024
Exhibit-P10	TRUE COPY OF COPY APPLICATION I.A. 11/2024 DATED 24-07-2024 FOR ISSUING CARBON COPY OF ORDER IN IA NO.2/2024 IN O.S. NO. 1319/2024 DATED 24/07/2024 SUBMITTED BY THE PETITIONER BEFORE THE MUNSIFF COURT, THRISSUR