



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 23RD DAY OF JUNE 2026 / 2ND ASHADHA, 1948

OP(CRL.) NO. 166 OF 2026

AGAINST THE ORDER DATED 30.08.2025 IN CRMP NO.2178 OF
2025 OF CHIEF JUDICIAL MAGISTRATE, KOTTAYAM ARISING OUT OF THE
ORDER IN MC NO.578 OF 2023 OF CHIEF JUDICIAL MAGISTRATE,
KOTTAYAM

PETITIONER/PETITIONER:

GEORGE JOSEPH
AGED 62 YEARS,
S/O JOSEPH K.C.,
KALAMBUKATTUSSERI HOUSE,
AYAMANAM P.O.,
KOTTAYAM,
PIN - 686015

BY ADV SHRI.LAVARAJ M.G.

RESPONDENT/RESPONDENT:

STATE BANK OF INDIA
REPRESENTED BY AUTHORIZED OFFICER,
SMT. SOBHANA BALAKRISHNAN NAIR,
AGED 57 YEARS
D/O BALAKRISHNAN NAIR,
CHIEF MANAGER OF STATE BANK OF INDIA,
STRESSED ASSET RECOVERY BRANCH,
7TH FLOOR, VANKARATH BUILDING,
PALARIVATTOM, PIN - 682014

SRI. JAWAHAR JOSE, SC, SBI

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
19.06.2026, THE COURT ON 23.06.2026 DELIVERED THE FOLLOWING:



J U D G M E N T

Ext P8 common order passed by the Chief Judicial Magistrate Court, Kottayam, in C.M.P.Nos.2178/2025 & 2179/2025 in M.C.No.578/2023, is under challenge in this original petition filed by the petitioner in the aforesaid CMPs.

2. The issue relates to the proceedings initiated by the respondent Bank under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (*in short*, 'SARFAESI Act') against the petitioner by approaching the learned Magistrate under Section 14 of the said Act to take possession of the secured assets. According to the petitioner, the respondent made misrepresentation before the learned Magistrate that the 5.15 Ares of land sought to be taken possession of was not agricultural land, exempted under Section 31 (1) of the SARFAESI Act. For the above reason, C.M.P.No.2178/2025 was filed to proceed against the authorised officer for the commission of offence under Sections 227, 228, 233, 234, 236 & 237 of Bharatiya Nyaya Sanhita, 2023 (*in short*, 'BNS'). C.M.P.No.2179/2025 was filed with a prayer to dismiss the



proceedings initiated by the bank in M.C.No.578/2023 before the learned Magistrate.

3. Heard the learned counsel for the petitioner and learned counsel for the respondent.

4. The legal proposition that the Chief Judicial Magistrate concerned while deciding applications under Section 14 of the SARFAESI Act, does not exercise any adjudicatory power, is no more *res integra* in view of the law laid down by the Hon'ble Supreme Court in ***Balkrishna Rama Tarle v. Phoenix ARC Pvt. Ltd. [(2023) 1 SCC 662]*** and ***Indian Bank v. D. Vishalakshi [(2019) 20 SCC 47]***. The question whether the land proceeded against is exempted under Section 31(1) of the SARFAESI Act, is a matter to be adjudicated by the Debt Recovery Tribunal or the Appellate Tribunal as the case may be. It is pertinent to note that even as per the contentions of the petitioner in this original petition, the issue involved in this case is pending consideration of the Debt Recovery Tribunal in an application filed by the respondent bank as S.A.No.266/2024. The petitioner could very well approach the Debt Recovery Tribunal, if he has got a legally sustainable ground under Section 31(1) of the SARFAESI Act against the proceedings initiated upon



the secured assets. The question whether the respondent bank made misrepresentation before the learned Magistrate about the nature of the assets sought to be proceeded against, could be decided only subject to the finding of the DRT as to whether the landed property taken possession of, was exempted under the aforesaid provision or not. Therefore, the Magistrate cannot be found to be at fault for dismissing the above petitions filed by the petitioner. At any rate, the issues stated above cannot be the subject matter of an original petition filed under Article 227 of the Constitution of India.

In the result, the original petition is hereby dismissed.

(sd/-)

G. GIRISH, JUDGE

DST



APPENDIX

PETITIONER EXHIBITS

- EXHIBIT P1** THE TRUE COPY OF TITLE DEED NO. 2670 OF 2003 DATED 26.07.2003 OF SRO, KOTTAYAM
- EXHIBIT P2** TRUE COPY OF MC 578/2023 FILED BY THE RESPONDENT BEFORE HONORABLE CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM DATED 20.10.2023
- EXHIBIT P3** TRUE COPY OF THE MAINTAINABILITY PETITION FILED BY THE PETITIONER DATED 19.5.2025 SUBSEQUENTLY NUMBERED AS CMP NO.2178/2025
- EXHIBIT P4** TRUE COPY OF APPLICATION IN SA 266/2024 FILED BY THE PETITIONER BEFORE THE HONOURABLE DEBT RECOVERY TRIBUNAL DATED APRIL, 2024.
- EXHIBIT P5** TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN SA 266/2024 DATED 15.01.2025
- EXHIBIT P6** THE TRUE COPY OF THE ORDER DATED 9.11.2023 OF CHIEF JUDICIAL MAGISTRATE APPOINTING ADVOCATE COMMISSIONER M.C 578.2023 WAS PRODUCED AS ANNEXURE A4 IN SA NO.266/2024
- EXHIBIT P7** TRUE COPY OF PETITION SUBMITTED IN M.C.NO.578/2023 DATED 16.05.2025, SUBSEQUENTLY NUMBERED AS CMP NO.2179/2025
- EXHIBIT P8** THE TRUE COPY OF THE COMMON ORDER OF THE HON'BLE CHIEF JUDICIAL MAGISTRATE, KOTTAYAM IN CMP 2178/2025 AND CMP 2179/2025 IN MC NO.578/2023 DATED 30.8.2025
- EXHIBIT P9** TRUE COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER, KRISHIBHAVAN, AYMANAM DATED 02.12.2025 WITH LEGIBLE COPY.