



2025:KER:65717

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K. NARENDHAN

&

THE HONOURABLE MR. JUSTICE MURALEE KRISHNA S.

WEDNESDAY, THE 27<sup>TH</sup> DAY OF AUGUST 2025 / 5TH BHADRA, 1947

WA NO. 2095 OF 2025

AGAINST THE JUDGMENT DATED 01.08.2025 IN W.P. (C)  
NO.24490 OF 2025 OF HIGH COURT OF KERALA

APPELLANTS/PETITIONERS:

- 1 M/S CLASSIC AGENCIES,  
WHICH WAS INITIALLY LOCATED AT 19/49A, ABBA SAW  
MILL COMPOUND, PUTHIYAPALAM, CHALAPPURAM,  
KOZHIKODE, AND THEREAFTER RELOCATED TO RACHANA  
22/940, KADAVATH ROAD, THIRUVANNUR (PO), WEST  
MANKAVU, KOZHIKODE,  
A PARTNERSHIP FIRM, HAVING ITS OFFICE PRESENTLY  
LOCATED AT 18/1015A SAJITHA BUILDING, ODUMBRA  
BAZAR, ODUMBRA, KOZHIKODE, REPRESENTED BY THE  
PARTNER MANI. V, ,  
S/O LATE SREEDHARAN, VAZHAYIL HOUSE, THIRUVANNUR  
(PO), KOZHIKODE- IN PANNIYANKARA VILLAGE & DESOM  
OF KOZHIKODE TALUK IN KOZHIKODE DISTRICT, PIN -  
673019
- 2 M/S BHARATH ELECTRONICS,  
5/3411, GROUND FLOOR, ESHA ARCADE,  
AZHAKODI TEMPLE ROAD, MAVOOR ROAD, KOZHIKODE,  
A PARTNERSHIP FIRM, WHICH HAS TERMINATED ALL ITS  
BUSINESS OPERATIONS SINCE MARCH 2024,  
REPRESENTED BY THE PARTNER MANI. V,  
S/O LATE SREEDHARAN, VAZHAYIL HOUSE,  
THIRUVANNUR (PO), KOZHIKODE- IN PANNIYANKARA  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673004



- 3      M/S AMBADI APPLIANCES,  
18/170, 180 PONNARAMBATH BUILDING, KADALUNDY  
ROAD, FEROKE, KOZHIKODE, A PARTNERSHIP FIRM WHICH  
HAS TERMINATED ALL ITS BUSINESS OPERATIONS SINCE  
JUNE 2024.  
REPRESENTED BY THE PARTNER UNNIKRISHNAN. V,  
S/O LATE SREEDHARAN, VAZHAYIL HOUSE,  
THIRUVANNUR (PO), KOZHIKODE- IN PANNIYANKARA  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673631
- 4      MANI. V.,  
AGED 66 YEARS  
S/O LATE SREEDHARAN, VAZHAYIL HOUSE,  
THIRUVANNUR (PO), KOZHIKODE, IN PANNIYANKARA  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673029
- 5      UNNIKRISHNAN. V.,  
AGED 56 YEARS  
S/O LATE SREEDHARAN, VAZHAYIL HOUSE,  
THIRUVANNUR (PO), KOZHIKODE, IN PANNIYANKARA  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673029
- 6      JAYAPRAKASH. K,  
AGED 59 YEARS  
S/O LATE CHATHUKKUTTY, SHEENA NIVAS,  
MALAPARAMBA (PO), KOZHIKODE, IN CHEVAYUR VILLAGE  
& DESOM OF KOZHIKODE TALUK IN KOZHIKODE DISTRICT,  
PIN - 673009
- 7      OBAIDULLAH KHAN. A.,  
AGED 58 YEARS  
S/O LATE AMANULLAH KHAN, 28/3515B,  
NEAR POTTAMMAL WATER TANK, KUTHIRAVATTOM (PO),  
KOZHIKODE, IN NELLIKKODE VILLAGE & DESOM OF  
KOZHIKODE TALUK IN KOZHIKODE DISTRICT, PIN -  
673016



- 8      HARIHARAN P K.,  
AGED 58 YEARS  
S/O LATE KRISHNAN, PANAEER KANDY, P K HOUSE,  
KOMMERY (PO), KOZHIKODE, IN KOMMERY VILLAGE &  
DESOM OF KOZHIKODE TALUK IN KOZHIKODE DISTRICT,  
PIN - 673007
- 9      ASOKAN. M.,  
AGED 57 YEARS  
S/O LATE VELUKKUTTY, MUNDERI HOUSE,  
GURUVAYURAPPAN COLLEGE (PO), KOZHIKODE, IN  
OLAVANNA VILLAGE & IRINGALLOOR DESOM OF KOZHIKODE  
TALUK IN KOZHIKODE DISTRICT, PIN - 673014
- 10     SUNIL KUMAR. M,  
AGED 54 YEARS  
S/O LATE VELUKKUTTY, MUNDERI HOUSE,  
GURUVAYURAPPAN COLLEGE (PO), KOZHIKODE,  
IN OLAVANNA VILLAGE & IRINGALLOOR DESOM OF  
KOZHIKODE TALUK IN KOZHIKODE DISTRICT, PIN -  
673014
- 11     GOURI DAS.T.,  
AGED 53 YEARS  
S/O LATE SAMIKUTTY, THALIYADATH HIOUSE,  
MEENCHANDA ARTS COLLEGE (PO), KOZHIKODE,  
IN PANNIYANKARA VILLAGE & DESOM OF KOZHIKODE  
TALUK IN KOZHIKODE DISTRICT, PIN - 673018
- 12     SURAJ T.,  
AGED 50 YEARS  
S/O LATE GOVINDANKUTTY NAIR, NADUMKANDATHIL  
HOUSE, MANASSERY (PO), KOZHIKODE, IN THAZHEKODE  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673602
- 13     KAMALAM,  
AGED 80 YEARS  
W/O LATE SREEDHARAN, VAZHAYIL HOUSE,  
THIRUVANNUR (PO), KOZHIKODE IN PANNIYANKARA  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673029



- 14 ANANDAN K.,  
AGED 62 YEARS  
S/O LATE BALAKRISHNAN NAIR, 1/70 AMBADI HOUSE,  
GURUVAYURAPPAN COLLEGE (PO), KOZHIKODE- IN  
OLAVANNA VILLAGE & IRINGALLOOR DESOM OF KOZHIKODE  
TALUK IN KOZHIKODE DISTRICT, PIN - 673014
- 15 SUDHEENDRAN K M.,  
AGED 62 YEARS  
S/O LATE KRISHNA KURUP, GEETHALAYAM,  
GURUVAYURAPPAN COLLEGE (PO), KOZHIKODE-OLAVANNA  
VILLAGE & IRINGALLOOR DESOM OF KOZHIKODE TALUK IN  
KOZHIKODE DISTRICT, PIN - 673014
- 16 SUPRIYA K V.,  
AGED 51 YEARS  
W/O UNNIKRISHNAN. V, VAZHAYIL HOUSE,  
THIRUVANNUR (PO), KOZHIKODE-IN PANNIYANKARA  
VILLAGE & DESOM OF KOZHIKODE TALUK IN KOZHIKODE  
DISTRICT,  
PIN - 673029
- 17 JITHESH.K.,  
AGED 48 YEARS  
S/O LATE GOPINATHA KURUP, UDAYAM HOUSE,  
VELLIPARAMBA (PO), KOZHIKODE- IN KUTTIKATTTOOR  
VILLAGE & VELLIPARAMBA DESOM OF KOZHIKODE TALUK  
IN KOZHIKODE DISTRICT, PIN - 673008

BY ADV SHRI.DHANANJAY DEEPAK

RESPONDENTS:

- 1 THE REGIONAL OFFICE,  
INDIAN OVERSEAS BANK, KOZHIKODE , REPRESENTED BY  
ITS REGIONAL MANAGER AND HAVING ITS OFFICE AT SL  
TOWERS, 1ST & 2ND FLOORS, NEAR ENGLISH CHURCH,  
NADAKKAVU (PO), KOZHIKODE, KERALA, PIN - 673011
- 2 INDIAN OVERSEAS BANK,  
SPECIALIZED ARM BRANCH, ERNAKULAM REPRESENTED BY  
ITS CHIEF MANAGER AND HAVING ITS OFFICE AT 1ST



FLOOR,  
IOB BUILDING, NEAR KAVITHA THEATRE,  
MG ROAD, ERNAKULAM, KERALA, PIN - 682035

- 3 INDIAN OVERSEAS BANK,  
MAVOOR ROAD BRANCH, KOZHIKODE REPRESENTED BY ITS  
MANAGER, AND HAVING ITS OFFICE AT THE 1ST FLOOR,  
SHOBHA TOWER 5/3412, MAVOOR ROAD,  
ARAYIDATHUPALAM, KOZHIKODE CITY, KERALA, PIN -  
673004

OTHER PRESENT:

SRI. SUNIL SHANKAR, SC. INDIAN OVERSEAS BANK

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
27.08.2025, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**“C.R”****JUDGMENT****Anil K. Narendran, J.**

The appellants-petitioners filed W.P.(C)No.24490 of 2025 invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the 2<sup>nd</sup> respondent Indian Overseas Bank not to cancel the One Time Settlement (OTS) facility granted vide Ext.P2 sanction letter dated 26.12.2024 and to consider favourably the proposal made by the petitioners in Ext.P6 request dated 16.06.2025, for extending the timeline of the OTS facility sanctioned vide Ext.P2. The petitioners have also sought for a writ of mandamus commanding the respondents to keep in abeyance all coercive steps against the secured assets, till a decision is taken by Indian Overseas Bank on the proposal made in Ext.P6 request for extending the timeline of the OTS facility sanctioned vide Ext.P2.

2. Before the learned Single Judge, the learned Standing Counsel for Indian Overseas Bank filed a statement dated 17.07.2025, opposing the reliefs sought for. By the judgment



dated 01.08.2025, the learned Single Judge disposed of the writ petition, taking note of the submission made by the learned Standing Counsel for Indian Overseas Bank that the Bank has already taken a decision on the proposal made by the petitioners in Ext.P6 request. In the said judgment, the learned Single Judge directed the respondents to communicate the decision taken on Ext.P6 request within a week. To enable the petitioners to work out their remedies, it was ordered that no steps shall be taken by the Bank, against the petitioners, for a period of two weeks.

3. Feeling aggrieved by the judgment dated 01.08.2025 of the learned Single Judge in W.P.(C)No.24490 of 2025, the appellants-petitioners are before this Court in this writ appeal, invoking the provisions under Section 5(i) of the Kerala High Court Act, 1958.

4. Heard arguments of the learned counsel for the appellants-petitioners and the learned Standing Counsel for Indian Overseas Bank for the respondents.

5. The learned counsel for the appellants-petitioners would contend that since the appellants have made a total payment of Rs.1.19 Crores to the 2<sup>nd</sup> respondent Bank pursuant



to the OTS facility sanctioned vide Ext.P2 sanction letter dated 26.12.2024, the learned Single Judge ought to have granted the reliefs sought for in W.P.(C)No.24490 of 2025. After the judgment of the learned Single Judge the appellants have been issued with Annexure A reply dated 14.08.2025, whereby their request in Ext.P6 for extending the timeline in the OTS facility granted vide Ext.P2 stands rejected.

6. On the other hand, the learned Standing Counsel for Indian Overseas Bank for the respondents would point out the specific contentions raised in the statement dated 17.07.2025 filed in W.P.(C)No.24490 of 2025 on the maintainability of the reliefs sought for in that writ petition.

7. In **South Indian Bank Ltd. v. Naveen Mathew Philip [(2023) 17 SCC 311]**, in the context of the challenge made against the notices issued under Section 13(4) of the SARFAESI Act, the Apex Court reiterated the settled position of law on the interference of the High Court invoking Article 226 of the Constitution of India in commercial matters, where an effective and efficacious alternative forum has been constituted through a statute. In the said decision, the Apex Court took





judicial notice of the fact that certain High Courts continue to interfere in such matters, leading to a regular supply of cases before the Apex Court. The Apex Court reiterated that a writ of certiorari is to be issued over a decision when the court finds that the process does not conform to the law or the statute. In other words, courts are not expected to substitute themselves with the decision-making authority while finding fault with the process along with the reasons assigned. Such a writ is not expected to be issued to remedy all violations. When a Tribunal is constituted, it is expected to go into the issues of fact and law, including a statutory violation. A question as to whether such a violation would be over a mandatory prescription as against a discretionary one is primarily within the domain of the Tribunal. The issues governing waiver, acquiescence and estoppel are also primarily within the domain of the Tribunal. The object and reasons behind the SARFAESI Act are very clear as observed in **Mardia Chemicals Ltd. v. Union of India [(2004) 4 SCC 311]**. While it facilitates a faster and smoother mode of recovery *sans* any interference from the court, it does provide a fair mechanism in the form of the Tribunal being manned by a legally trained mind.



The Tribunal is clothed with a wide range of powers to set aside an illegal order, and thereafter, grant consequential reliefs, including repossession and payment of compensation and costs.

Section 17(1) of the SARFAESI Act gives an expansive meaning to the expression 'any person', who could approach the Tribunal.

8. In **Naveen Mathew Philip [(2023) 17 SCC 311]** the Apex Court noticed that, in matters under the SARFAESI Act, approaching the High Court for the consideration of an offer by the borrower is also frowned upon by the Apex Court. A writ of mandamus is a prerogative writ. The court cannot exercise the said power in the absence of any legal right. More circumspection is required in a financial transaction, particularly when one of the parties would not come within the purview of Article 12 of the Constitution of India. When a statute prescribes a particular mode, an attempt to circumvent that mode shall not be encouraged by a writ court. A litigant cannot avoid the non-compliance of approaching the Tribunal, which requires the prescription of fees, and use the constitutional remedy as an alternative. In paragraph 17 of the decision, the Apex Court reiterated the position of law regarding the interference of the High Courts in matters pertaining



to the SARFAESI Act by quoting its earlier decisions in **Federal Bank Ltd. v. Sagar Thomas [(2003) 10 SCC 733]**, **United Bank of India v. Satyawati Tondon [(2010) 8 SCC 110]**, **State Bank of Travancore v. Mathew K.C. [(2018) 3 SCC 85]**, **Phoenix ARC (P) Ltd. v. Vishwa Bharati Vidya Mandir [(2022) 5 SCC 345]** and **Varimadugu Obi Reddy v. B. Sreenivasulu [(2023) 2 SCC 168]** wherein the said practice has been deprecated while requesting the High Courts not to entertain such cases. In paragraph 18 of the said decision, the Apex Court observed that the powers conferred under Article 226 of the Constitution of India are rather wide, but are required to be exercised only in extraordinary circumstances in matters pertaining to proceedings and adjudicatory scheme qua a statute, more so in commercial matters involving a lender and a borrower, when the legislature has provided for a specific mechanism for appropriate redressal.

9. By Ext.P2 sanction letter dated 26.12.2024, the appellants-petitioners were granted OTS facility, subject to the specific conditions stipulated therein. Condition No.4 of Ext.P2 sanction letter provides for automatic cancellation of OTS facility



in the event non-fulfillment of the stipulated terms of sanction.

Admittedly, the appellants could not fulfill the stipulated terms of Ext.P2 sanction letter. Therefore, in terms of Clause 4 of Ext.P2 sanction letter, the OTS facility sanctioned to the appellants stands cancelled automatically, with effect from the date of non-fulfillment of the stipulated terms of sanction.

10. In **State Bank of India v. Arvindra Electronics Pvt. Ltd. [(2023) 1 SCC 540]** - judgment dated 04.11.2022 in Civil Appeal No.6954 of 2022 - the Apex Court reiterated the law laid down in **Bijnor Urban Cooperative Bank Limited v. Meenal Agarwal [(2023) 2 SCC 805]** - judgment dated 15.12.2021 in Civil Appeal No.7411 of 2021 - that no writ of mandamus can be issued by the High Court in exercise of the powers under Article 226 of the Constitution of India directing a financial institution/ bank to positively grant the benefit of One Time Settlement (OTS) to a borrower; the grant of benefit under the OTS is always subject to eligibility criteria mentioned under the OTS scheme and guidelines issued from time to time. Such a decision should be left to the commercial wisdom of the bank, whose amount is involved, and it is always to be presumed that financial institution/bank shall



take a prudent decision whether to grant benefit or not under the OTS scheme. Therefore, the High Court materially erred and exceeded in its jurisdiction in issuing a writ of mandamus directing the bank to positively consider/grant the benefit of OTS to the borrower.

11. In **Arvindra Electronics Pvt. Ltd. [(2023) 1 SCC 540]** the Apex Court held that directing the bank to reschedule the payment under OTS would tantamount to modification of the contract, which can be done by mutual consent under Section 62 of the Contract Act, 1872. Further, rescheduling the payment under OTS and granting extension of time would tantamount to rewriting the contract, which is not permissible while exercising the powers under Article 226 of the Constitution of India.

12. Viewed in the light of the law laid down by the Apex Court in **Bijnor Urban Cooperative Bank Limited [(2023) 2 SCC 805]** and **Arvindra Electronics Pvt. Ltd. [(2023) 1 SCC 540]**, conclusion is irresistible that, invoking the writ jurisdiction under Article 226 of the Constitution of India, the appellants cannot seek a writ of mandamus, as sought for in W.P.(C)No. 24490 of 2025, commanding the Indian Overseas Bank not to



cancel the OTS facility granted vide Ext.P2 sanction letter dated 26.12.2024 and to consider favourably the proposal made by them in Ext.P6 request dated 16.06.2025, for extending the timeline of the OTS facility sanctioned vide Ext.P2. In view of the law laid down by the Apex Court in **Naveen Mathew Philip [(2023) 17 SCC 311]**, invoking the writ jurisdiction under Article 226 of the Constitution of India, the appellants cannot seek a writ of mandamus, commanding the respondents, to keep in abeyance all coercive steps against the secured assets, under the provisions of the SARFAESI Act, till a decision is taken by the Bank on the proposal made in Ext.P6 request for extending the timeline of the OTS facility sanctioned vide Ext.P2.

In the result, we find absolutely no grounds to entertain this writ appeal. The writ appeal fails and the same is accordingly dismissed.

**Sd/-**

**ANIL K. NARENDRAN, JUDGE**

**Sd/-**

**MURALEE KRISHNA S., JUDGE**



W.A.No.2095 of 2025

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**APPENDIX OF WA 2095 OF 2025**

**PETITIONER ANNEXURES**

**Annexure A**

**TRUE COPY OF THE OTS REJECTION LETTER  
DATED 14/08/2025**