



WA No.2963 of 2025

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

TUESDAY, THE 3RD DAY OF MARCH 2026 / 12TH PHALGUNA, 1947WA NO. 2963 OF 2025AGAINST THE JUDGMENT DATED 20.11.2025 IN WP(C) NO.39469 OF
2025 OF HIGH COURT OF KERALAAPPELLANTS/PETITIONERS:

- 1 REMYA VINOD,AGED 40 YEARS
W/O.LATE VINOD.M.A, MELETH,VAPPALASSEY (P.O) ,
NEDUMBASSERY,ANGAMALY, PIN - 683572
- 2 VILASINI.C.N,AGED 70 YEARS
W/O.M.S.AMBUJAKSHAN NAIR,MELETH, VAPPALASSEY (P.O) ,
NEDUMBASSERY,ANGAMALY, PIN - 683572

BY ADVS.
SRI.C.AJITH KUMAR
SHRI.RAJEEVU L.G.
SMT.VARSHA S.S.RESPONDENTS/RESPONDENTS:

- 1 THE FEDERAL BANK LTD. ,
LCRD,ERNAKULAM DIVISION,FEDERAL TOWERS,GROUND
FLOOR,MARINE DRIVE,ERNAKULAM,REPRESENTED BY ITS
AUTHORIZED OFFICER, PIN - 682031
- 2 THE AUTHORIZED OFFICER,
FEDERAL BANK LTD.,ASSET RECOVERY BRANCH,FEDERAL
TOWERS,GROUND FLOOR,MARINE DRIVE,ERNAKULAM, PIN -



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682031

3 ASEENA @ HASEENA, W/O. NAVAS, PADINJARECHALIL HOUSE,
MULAVOOR (P.O), PAYIPRA, PIN - 686669

4 RASEENA.K,
W/O.ASHRAF.K.A, KATTUNGAL HOUSE, MADRASSA LANE, MARVAR
JUNCTION, ALUVA, PIN - 683101

BY ADV SMT.LIZA P. CHERIAN
SRI.MOHAN JACOB GEORGE, SC, FEDERAL BANK

THIS WRIT APPEAL WAS FINALLY HEARD ON 23.02.2026, THE COURT
ON 03.03.2026 PASSED THE FOLLOWING:



JUDGMENT

Muralee Krishna, J.

The petitioners in W.P.(C)No.39469 of 2025 filed this writ appeal under Section 5(i) of the Kerala High Court Act, 1958, challenging the judgment dated 20.11.2025 passed by the learned Single Judge in that writ petition.

2. Going by the pleadings in the writ petition, in Ext.P1 E-Auction notice dated 26.02.2018 issued by the 1st and 2nd respondents pertaining to the immovable property of the 4th respondent measuring an extent of 6.07 ares in Re-Survey No. 96/3 in block No.9 of Nedumbassery Village, which is the secured asset of the financial facility offered to respondents 3 and 4, Sri.Vinod.M.A, who is the husband of the 1st appellant and son of the 2nd appellant, became the successful bidder, and upon payment of 25% of the bid, amounting to Rs.9,00,500/-, the bid was confirmed in his favour. The successful bidder thereafter could not remit the balance 75% of the bid amount, in view of the pendency of S.A.No.157 of 2018 on the files of the Debts Recovery Tribunal-I, Ernakulam (the 'Tribunal' for short), filed by the 3rd and



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4th respondents, challenging Ext.P1 E-Auction. Ext.P3 proceedings in S.A.No.157 of 2018 reveal that there is serious laches on the part of the 1st and 2nd respondents in not seeking early disposal of the case pending before the Tribunal, protecting the interest of the successful bidder. During the pendency of the S.A, the successful bidder expired, leaving behind legal heirs, the appellants. Due to the inordinate delay in disposal of S.A.No.157 of 2018, the appellants submitted Ext.P6 representation dated 04.10.2025, before the 1st and 2nd respondents, seeking refund of the 25% of the bid amount remitted, as they were no longer interested in continuing with the confirmation of sale process pursuant to Ext.P1. To Ext.P6, Ext.P7 reply dated 14.10.2025 was given by the bank, expressing their inability to refund the amount, in view of the pendency of S.A.No.157 of 2018 before the Tribunal. Being highly aggrieved by the inaction on the part of the 1st and 2nd respondents in not considering Ext.P6 favourably, the appellants filed W.P.(C)No.39469 of 2025 under Article 226 of the Constitution of India, seeking the following reliefs:

"a) Issue a Writ of Mandamus or any other appropriate writ



or order or direction commanding the 1st and 2nd respondents to release the amount of Rs.9,00,500/- deposited by the successful bidder, in connection with Ext.P1 E-Auction sale notice, with accrued interest thereof, to the petitioners, being the legal heirs of the successful bidder, within a time frame to be fixed by this Hon'ble Court;

b) Direct the 1st and 2nd respondents to pay compensation of Rs.1,00,000/- to the petitioners, towards the mental agony and loss suffered by them, for the delay caused in fulfilling the obligations cast upon them while issuing Ext.P1 E-auction notice".

3. Along with I.A No.1 of 2025 filed in the writ petition, the appellants produced Ext.P8 document.

4. On 20.11.2025, when the writ petition came up for consideration, the learned Single Judge passed the impugned judgment, whereby the writ petition is disposed of, directing the Tribunal to take up Ext.P8 interlocutory application filed in S.A.No.157 of 2018 for impleading the appellants, as expeditiously as possible and directing the Tribunal to dispose of S.A.No.157 of 2018 finally within a period of three months from the date of impleading the appellants in S.A. Being aggrieved, the appellants-petitioners have filed the present writ appeal.



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5. Heard the learned counsel for the appellants, the learned Standing Counsel for respondents 1 and 2 and the learned counsel for respondents 3 and 4.

6. The learned counsel for the appellants would submit that the appeal filed by respondents 3 and 4 before the Tribunal is a statutory appeal against Ext.P1 E-Auction conducted by the Bank. The grievance of the appellants is the non-return of the EMD deposited by their predecessor while participating in the auction. The Bank dealing with public money has a public duty, and hence a writ petition is maintainable under Article 226 of the Constitution of India. By pointing out Ext.P3 'A' diary proceedings of the Tribunal, the learned counsel vehemently argued that there is gross negligence on the part of the Bank in finalising the proceedings pending before the Tribunal and also in timely informing the Tribunal about the money deposited by the predecessor of the appellants while participating in the E-auction. The learned Single Judge failed to properly appreciate the dictum laid down by the Apex Court in **Mohammed Shariq v. Punjab National Bank [(2023) 16 SCC 341]**.



7. On the other hand, the learned Standing Counsel for the Bank would submit that the appellants are claiming return of the amount deposited by their predecessor, who was a successful bidder in the E-auction conducted by the Bank and also compensation of Rs.1,00,000/-. A writ petition claiming those reliefs is not maintainable, since the disputed question of facts pertaining to the said E-auction is under consideration of the competent Tribunal. The learned counsel further argued that the learned Single Judge considered all the contentions of the appellants on merit, and since there is no illegality or perversity in the said judgment, no interference by exercising appellate jurisdiction is warranted. It is also the argument of the learned Standing Counsel that the Bank acted as per the provisions of the law, and the authorised officer of the Bank cannot take a decision to return the money deposited by the predecessor of the appellants towards the portion of the bid amount only for the reason that the borrowers challenged the sale before the Tribunal. The learned Standing counsel relied on the judgment of the Apex Court in **Celir LLP v. Bafna Motors (Mumbai) Pvt. Ltd. [2024**



(2) SCC 1], in support of his arguments, wherein the Apex Court held thus:

“100. Bank is duty bound to follow the provisions of the law as any other litigant. It is to be noted that the Bank i.e., the secured creditor acts under the SARFAESI Act through the authorised officer who is appointed under S.13(2). Thus, the authorised officer and the Bank cannot act in a manner so as to keep the sword hanging on the neck of the auction purchaser. The law treats everyone equally and that includes the Bank and its officers. The said enactments were enacted for speedy recovery and for benefitting the public at large and does not give any license to the Bank officers to act de hors the scheme of the law or the binding verdicts”.

8. The learned counsel for the respondents 3 and 4 would submit that the appellants are not necessary or proper parties to the Securitisation Application pending before the Tribunal. In the Securitisation Application, respondents 3 and 4 did not seek any relief against the appellants. It is the argument of the learned counsel that after the sale, the appellants kept quiet for about five years and then came up with the present writ petition.

9. In **Mohammed Shariq [(2023) 16 SCC 341]**,



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wherein the judgment of the High Court relegating the writ petitioner to approach the competent forum for return of 25% of the bid amount deposited by him came up for consideration, the Apex Court held thus:

“24. The Division Bench of the High Court although has reversed the finding so far as the subsequent auction proceedings held pursuant to notice dated 5-3-2014 is concerned, the appellant has no quarrel with the same. The only grievance of the appellant is relegating him to avail remedy which the law permits for recovery of the amount forfeited, there appears, in our view, no justification in the facts and circumstances particularly when the factual matrix is not in dispute and the money deposited by the appellant towards earnest money and the first instalment of 25% in terms of the auction notice dated 18-6-2013 is the accepted fact by either party.

25. We are of the considered view that once there is no dispute on the facts that came on record, there appears no reason for the appellant to be relegated to avail other remedial mechanisms for recovery of the undisputed amount and the Division Bench has committed a manifest error in the facts and circumstances in not exercising its power under Article 226 of the Constitution and instead of resolving the dispute, the Division Bench under the impugned judgment [*Manish Tayal v. Mohd. Shariq*, 2016



SCC OnLine Utt 345] has kept the issue alive, permitting the parties to have a second innings in reference to the dispute which stands crystallised/settled”.

(underline supplied)

10. While going through the judgments of the Apex Court in **Mohammed Shariq [(2023) 16 SCC 341]** and **Celir LLP [2024 (2) SCC 1]**, relied on by the parties to this writ appeal as mentioned above, we are of the opinion that the facts of those judgments are entirely different from the present case. In **Mohammed Shariq [(2023) 16 SCC 341]**, the bank has demanded the auction purchaser to pay the balance bid amount, and on his non-payment demanding finalisation of the matter before the Tribunal, proceeded with steps for reauction without repaying or forfeiting the bid amount. Moreover, the respondent Bank in **Mohammed Shariq [(2023) 16 SCC 341]** is not a Private Bank, and whereas in the present case in our hand, the Bank is a private Bank. Similarly, in **Celir LLP [2024 (2) SCC 1]**, despite the depositing of the entire bid amount, the bank did not issue a sale certificate to the auction purchaser. In the case at hand, the facts are entirely different, as narrated above.



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11. The predecessor in interest of the appellants, namely, Sri.Vinod M.A., was a successful bidder in the E-auction conducted on 11.04.2018 in respect of the mortgaged property of respondent No.4, conducted by the Bank towards the defaulted loan availed by respondents 3 and 4. Being 25% of the bid amount, Sri.Vinod M.A. deposited a sum of Rs.9,00,500/- in the Bank. Meanwhile, respondents 3 and 4 filed S.A.No.157 of 2018 before the Tribunal and therefore, the balance 75% of the bid amount was not received by the Bank from the auction purchaser Sri.Vinod M.A. At the request of Sri. Vinod M.A, the 25% of the bid amount paid by him was converted as fixed deposit.

12. The appellants, who are the legal heirs of the auction purchaser Sri.Vinod M.A, for the first time, made the representation for the release of the 25% of bid amount remitted by their predecessor by way of Ext.P6 letter dated 04.10.2025, though the auction was held as early as on 11.04.2018. To that representation, the 1st respondent caused Ext.P7 reply dated 14.10.2025 expressing their inability due to the pendency of S.A.No.157 of 2018. Thereafter, the appellants filed Ext.P8



interlocutory application before the Tribunal to self-implead them as additional respondents 3 to 5 in the Securitisation Application. From the materials placed on record, it is evident that the finalisation of the auction could not be done by the Bank due to the pendency of the Securitisation Application filed by respondents 3 and 4 before the Tribunal. The materials on record do not show that till Ext.P6, the appellants or their predecessor made any earnest efforts to persuade the Bank to receive the balance bid amount and finalise the sale. The auction purchaser, Sri.Vinod M.A was aware of the pendency of the Securitisation Application as early as in the year 2018, as evident from the pleading in the writ petition and from the request made by him to put the bid amount deposited by him as a fixed deposit.

13. It is trite that the authorised officer of the Bank cannot set aside the sale which was already confirmed in the name of the predecessor of the appellants, only for the reason that the finalisation of proceedings pursuant to the same could not be completed due to a Securitisation Application filed by the borrowers pending before the Tribunal. Therefore, one of the



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recourses open for the appellants to redress their grievance is either to take steps to finalise the Securitisation Application pending before the Tribunal or move before the civil court for appropriate relief based on the terms and conditions of the sale held on 11.04.2018. Moreover, the reliefs sought in the writ petition, especially the 2nd relief pertaining to compensation, cannot be decided in a writ petition filed under Article 226 of the Constitution of India.

14. Having considered the pleadings and materials on record and the submissions made at the Bar, we find no ground to hold the impugned judgment of the learned Single Judge as perverse or patently illegal, which warrants interference by exercising appellate jurisdiction.

In the result, the writ appeal stands dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

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