



2026:KER:40509

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

WEDNESDAY, THE 10TH DAY OF JUNE 2026 / 20TH JYAISHTA, 1948

WP(C) NO. 10317 OF 2025

PETITIONERS:

- 1 P.A. BANASEER BANU, AGED 45 YEARS
W/O. LATE MUHAMMED ISMAIL, 9/541,
MASJID LINE, PARAKKUNNAM,
VADAKKANTHARA P.O.,
PALAKKAD, PIN - 678012
- 2 MISS. NASREEN FATHIMA, AGED 21 YEARS
D/O. LATE MUHAMMED ISMAIL, 9/541, MASJID LINE,
PARAKKUNNAM, VADAKKANTHARA P.O., PALAKKAD,
PERSON WITH DISABILITY REPRESENTED BY THE 1ST
PETITIONER), PIN - 678012

BY ADVS.

SRI.BINOY VASUDEVAN
SRI.SREEJITH SREENATH
SMT.K.V.RAJESWARI
SMT.SUSHAMA DEVI M.
SMT.RINCY KHADER

RESPONDENTS:

- 1 CANARA BANK,
BIG BAZAR BRANCH, AZEEZ BUILDING, 1ST FLOOR,
BOC ROAD, PALAKKAD,
REPRESENTED BY ITS MANAGER, PIN - 678014
- 2 THE AUTHORISED OFFICER,
CANARA BANK, BIG BAZAR BRANCH, PALAKKAD,
AZEEZ BUILDING, 1ST FLOOR, BOC ROAD,
PALAKKAD, PIN - 678014
- 3 NABEEL AHAMED M.I.,
S/O. MUHAMMED ISMAIL, RIVEERA APARTMENTS,
HARITHA NAGAR, WEST YAKKARA P.O., PALAKKAD,
PIN - 678701



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- 4 NOURINE FATHIMA,
W/O. NABEEL AHAMED M.I., RIVEERA APARTMENTS,
HARITHA NAGAR, WEST YAKKARA P.O., PALAKKAD,
PIN - 678701

- 5 THE LOCAL LEVEL COMMITTEE CONSTITUTED,
(UNDER THE NATIONAL TRUST FOR THE WELFARE OF
PERSONS WITH AUTISM, CEREBRAL PALSY MENTAL
RETARDATION AND MULTIPLE DISABILITIES ACT,
1999) CIVIL STATION, PALAKKAD,
REPRESENTED BY ITS CONVENOR, PIN - 678003

BY ADVS.
GOVERNMENT PLEADER
SHRI.N.MANOJ KUMAR, STATE ATTORNEY

SRI M GOPIKRISHNAN NAMBIAR SC,
SRI V RAMKUMAR NAMBIAR, AMICUS CURIAE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 10.06.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**CR****P.V. BALAKRISHNAN, J.**

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W.P. (C) No. 10317 of 2025

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Dated this the 10th day of June, 2026**J U D G M E N T**

This writ petition is filed by the petitioners, aggrieved by the measures adopted by respondents 1 and 2 under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the 'SARFAESI Act', for short).

2. The 1st petitioner is the mother of the 2nd petitioner. The 2nd petitioner, though a major, is a mentally challenged person and the 1st petitioner has been appointed as her guardian. The 3rd respondent is the Managing Partner of a partnership firm by name and style, M/s.PAJ Traders, Oil Merchants, conducting business at Room No.16, Municipal Complex, Mannanchira Road, Palakkad, and the 1st petitioner and the 4th respondent are the other partners. The 2nd petitioner



and the 3rd respondent are the children of the 1st petitioner, and the 4th respondent is the wife of the 3rd respondent.

3. Originally, Late Muhammed Ismail, the husband of the 1st petitioner and the father of the 2nd petitioner and the 3rd respondent, was a partner of the afore firm and, for business purposes, the firm had availed financial assistance from the 1st respondent by mortgaging a property having an extent of 3.82 Ares and a residential building covered by Ext.P4 Document No.2773/2005 of S.R.O., Olavakode. Security interest was also created over another item of property having an extent of 2.60 Ares and a 3-storied residential building covered by Ext.P5 document. While so, the husband of the 1st petitioner passed away on 22.10.2020 and, on his death, the properties devolved upon petitioners 1 and 2 and the 3rd respondent.

4. After the death of Muhammed Ismail, the partnership was reconstituted and the 3rd respondent became the Managing Partner. The 4th respondent was also inducted into the firm. When a default occurred in the loan account, coercive steps



were taken by the Bank under the provisions of the SARFAESI Act and Ext.P7 notice under Section 13(2) of the SARFAESI Act was issued by the 2nd respondent on 25.09.2024, demanding a sum of Rs.42,69,998.47/-. The petitioners intend to wipe off the liability and are ready to sell Property No.2 to clear the debt. However, in order to sell the rights of the 2nd petitioner in the property, permission of the 5th respondent is mandatory as per the provisions of the National Trust Act. The 1st petitioner in her capacity as the guardian of the 2nd petitioner has already preferred Ext.P8 petition before the 5th respondent seeking permission to sell the share of the 2nd petitioner. In the meantime, respondents 1 and 2 had issued a sale notice dated 07-12-2024 proposing to sell property No.2 and the said property was sold for an amount of Rs.1,09,00,000/-. At that stage, the petitioners approached this Court by filing W.P.(C) No.4123 of 2025, contending that without getting the permission of the committee constituted under National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and



Multiple Disabilities Act, 1999 (hereinafter referred to as 'the National Trust Act'), the share of the 2nd petitioner cannot be sold even by invoking the provisions of the SARFAESI Act and the said writ petition is still pending. During the pendency of this writ petition, Ext.P9 sale notice had been issued by the 2nd respondent proposing to sell the residential house where the petitioners are staying. It is aggrieved by Ext.P9 notice issued by respondents 1 and 2, this writ petition has been filed by the petitioners seeking the following prayers:-

“1. Issue a writ of Certiorari or appropriate writs, orders or directions to call for the records leading to Exhibits P-9 and to quash the same;

2. Issue a writ to declare that the proceedings initiated by the respondents 1 and 2 under the SARFAESI Act without issuing notice to the 2nd petitioner who is a legal representative of the deceased Muhammed Ismail is ex-facie illegal, irregular and arbitrary.”

5. Heard the learned counsel for the petitioners, the learned counsel appearing for respondents 1 and 2, and Adv. V. Ramkumar Nambiar (Amicus Curiae in Mental Health Cases).

6. The prime contention raised by the learned counsel



for the petitioners is that respondents 1 and 2 cannot proceed with the sale of the property covered by Ext.P9, since the 2nd petitioner, who is an intellectually differently abled person, is also having an undivided share in the property. He contended that, unless and until permission is obtained from the 5th respondent Committee, as per the provisions of the National Trust Act, respondents 1 and 2 cannot take any coercive action under the SARFAESI Act against the property in which the 2nd petitioner is having interest. He also contended that since the 1st petitioner has been appointed as the guardian of the 2nd petitioner under the National Trust Act to protect the interests of the 2nd petitioner, not only physically but also her property, unless and until permission is obtained from the 5th respondent Committee neither the 1st petitioner nor the Bank has any right to deal with the properties of the 2nd petitioner. He further relied on Sections 10 and 15 of the National Trust Act and contended that unless and until such protective measures are adopted, the very purpose of the enactment will be defeated and the property of



such persons will be at stake.

7. The learned counsel for respondents 1 and 2 by relying on the decision of the Apex Court in ***State Bank of India v. Union of India and Others [2026 SCC Online SC 202]***, contended that if there is a conflict between two special enactments, and both of them are having non obstante clauses, the general rule is that latter enactment has to prevail over the earlier one. She also argued that the contentions of the petitioners have no legs to stand since there is no provision enabling the 5th respondent committee either to restrain or to grant permission to the statutory authorities to deal with the properties of a differently abled person.

8. The learned Amicus Curiae, by referring to Ext.P3, submitted that the disability of the 2nd petitioner assessed by the authorities is only mental illness and therefore, the National Trust Act will not be applicable to such persons. He also by relying on the decision of this Court in ***Sabarinathan K. v. District Collector, Palakkad [2021 (5) KHC 651]*** submitted



that even though there is no express provision under the National Trust Act or the Rules, as to how the assets of a ward have to be dealt with by a guardian appointed under the Act, this Court has held that the Local Level Committee under the National Trust Act has the power to grant or refuse sanction to a guardian to deal with the assets of a ward. He further added that **Sabarinathan** (supra) only places fetters on a guardian appointed under the Act, while dealing with the assets of a ward and the dictum will not be applicable to proceedings initiated by the Courts/Tribunals or other statutory authorities, like in the instant case, the authorised officer under the SARFAESI Act.

9. The key issue to be determined in this writ petition is whether respondents 1 and 2 are required to obtain prior permission from the 5th respondent—Local Level Committee established under the National Trust Act—before initiating proceedings against the property of the 2nd petitioner under the SARFAESI Act. It is not in dispute that neither the National Trust Act nor the Rules framed thereunder contain any specific



provision prescribing the procedure or manner for dealing with the properties of a ward. It is, however, acknowledged that this Court, in its decision in **Sabarinathan** (supra), upon examining the relevant provisions of the National Trust Act, arrived at the conclusion that the Local Level Committee under the National Trust Act is vested with the power to either grant or refuse approval to a guardian seeking to deal with the assets of the ward. The relevant portion of the judgment is quoted herewith for easy reference:-

The guardian is thus made responsible for the maintenance of the assets of the subject and is required to submit periodical reports regarding the assets of the subject. Situations would arise where for various reasons including, to find a financial source for the proper care and maintenance of the Ward, the assets of the Ward or a portion thereof would be required to be dealt with by way of sale or otherwise. However, there is no express provision under the National Trust Act or the Rules thereunder, enabling the same. When the guardian is answerable to the Local Level Committee, and periodical monitoring at the hands of the Committee is contemplated, it requires to be read into the powers of the Committee, the power to grant sanction for dealing with the assets of the Ward by the guardian appointed under Section 14 of the National Trust Act. Though express powers in the said regard have not been specifically vested in the committee, on the scheme of the Act it must be understood to be vested with the Committee.



Therefore it is declared that, the Local Level Committee under the National Trust Act, has the power to grant or refuse sanction to a guardian to deal with the assets of the Ward. Of course, whether in a given case sanction is to be granted or not, is for the Committee to consider on appreciating the entire facts of each case.

10. A careful reading of the afore decision makes it clear that the Court imposed limitations solely on the guardian appointed under Section 14 of the National Trust Act with respect to dealing with the properties of the ward. Having acknowledged the circumstances that may arise where the ward's assets, either wholly or in part, may need to be disposed of or otherwise dealt with for the purpose of ensuring the ward's proper care and maintenance, and in the absence of any express provision in the National Trust Act and the Rules framed thereunder, and further bearing in mind the role and responsibilities of a guardian under the National Trust Act, this Court implied within the Committee's powers the authority to grant approval for the guardian to deal with the ward's assets. It was accordingly held that the Local Level Committee under the National Trust Act possesses the power to either grant or



withhold such sanction from a guardian seeking to deal with the ward's assets. The afore dictum does not, in any manner, indicate that any obligation has been cast upon Courts, Tribunals, or other statutory authorities to seek permission from the Local Level Committee prior to dealing with the property of the ward, in accordance with law. Put differently, no restriction of any kind has been imposed upon Courts, Tribunals, or other statutory authorities from dealing with the properties of wards in the manner prescribed by law. That being the position, I am of the considered view that the 2nd respondent is under no obligation to obtain sanction or permission from the Local Level Committee constituted under the National Trust Act before proceeding to deal with the properties of the ward under the SARFAESI Act.

11. Be that as it may, the Honourable Apex Court in a catena of decisions, including the decisions in ***Phoenix ARC Pvt. Ltd. v. Vishwa Bharati Vidya Mandir and Others [2022 KHC OnLine 6040]***, ***South Indian Bank Ltd. (M/s.) v. Naveen***



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Mathew Philip [2023 KHC OnLine 6435] and ***PHR Invent Educational Society v. UCO Bank [2024 KHC OnLine 6208]***, has categorically held that writ petitions against SARFAESI proceedings must not be entertained since, the aggrieved persons have an alternative and efficacious remedy before the DRT. If the petitioners have any grievance against the sale proceedings initiated by respondents 1 and 2 under the SARFAESI Act, it is for the 1st petitioner to approach the DRT and seek appropriate reliefs by challenging the said proceedings.

Ergo, for the afore reasons I find no merit in this writ petition and the same is accordingly dismissed.

Sd/-

**P.V. BALAKRISHNAN
JUDGE**

RMV/aks



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APPENDIX OF WP(C) NO. 10317 OF 2025

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF CERTIFICATE NO.9128797971
DATED 01-10-2022 ISSUED BY THE 5TH
RESPONDENT
- Exhibit P2 TRUE COPY OF CERTIFICATE ISSUED BY THE
MEDICAL BOARD ATTACHED TO THE DISTRICT
HOSPITAL, PALAKKAD DATED 27-07-2022
DECLARING THAT THE 2ND PETITIONER IS A
MENTALLY DISABLED PERSON
- Exhibit P3 TRUE COPY OF THE UNIQUE DISABILITY ID
ISSUED IN FAVOUR OF THE 2ND PETITIONER BY
THE UNION OF INDIA DATED 16-08-2022
- Exhibit P4 TRUE COPY OF DOCUMENT NO.2773/2005 DATED
24-09-2005
- Exhibit P5 TRUE COPY DOCUMENT NO.2582/2015 OF
S.R.O.OLAVAKODE DATED 30-10-2015
- Exhibit P6 TRUE COPY OF THE NOTICE DATED 20-06-2024
ISSUED BY THE 2ND RESPONDENT UNDER SECTION
13(2) OF THE SARFAESI ACT
- Exhibit P7 TRUE COPY OF THE NOTICE DATED 25-09-2024
ISSUED BY THE 2ND RESPONDENT
- Exhibit P8 TRUE COPY OF THE PETITION FILED ON 13-09-
2024
- Exhibit P9 TRUE COPY OF THE E-AUCTION SALE NOTICE
DATED 05-03-2025 ISSUED BY THE 2ND
RESPONDENT