

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

Monday, the 3rd day of November 2025 / 12th Karthika, 1947

WP(C) NO. 39775 OF 2025(V)

PETITIONERS:

1. SAMEER KHAN AGED 48 YEARS S/O.SHAHUL HAMEED, MARHABA,KULATHINKARA VEMBAYAM,P.O,THIRUVANANTHAPURAM, PIN - 695615
2. SUDHEER KHAN AGED 56 YEARS S/O.SHAHUL HAMEED,KULATHINKARA VEEDU, VEMBAYAM, P.O, THIRUVANANTHAPURAM, PIN - 695615

RESPONDENTS:

1. SPECIAL DEPUTY TAHASILDAR(RR) OFFICE OF THE SPECIAL DEPUTY TAHASILDAR(REVENUE RECOVERY) KSFE LTD., SECOND FLOOR, NEW TRIDA CENTRE MEDICAL COLLEGE.P.O,THIRUVANANTHAPURAM, PIN - 695011
2. KERALA STATE FINANCIAL ENTERPRISES NEDUMANGAD (EVENING BRANCH), SARASWATHI COMPLEX, G.H.S ROAD, OPPOSITE SBT,NEDUMANGAD.P.O, THIRUVANANTHAPURAM,REPRESENTED BY ITS CHIEF MANAGER, PIN - 695541
3. THE KERALA STATE FINANCIAL ENTERPRISES LIMITED HEAD OFFICE, "BHADRATHA",MUSEUM ROAD,P.B.NO.510, THRISSUR,REPRESENTED BY ITS MANAGING DIRECTOR, PIN - 680020
4. THE FEDERAL BANK VEMBAYAM BRANCH, GROUND FLOOR,NO:MP 9/696D, MAIN ROAD,NEAR CBC HONDA, VEMBAYAM.P.O, THIRUVANANTHAPURAM DISTRICT, REPRESENTED BY ITS CHIEF MANAGER, PIN - 695615
5. RESERVE BANK OF INDIA THIRUVANANTHAPURAM REGIONAL OFFICE BAKERY JUNCTION,THIRUVANANTHAPURAM, REPRESENTED BY ITS REGIONAL DIRECTOR, PIN - 695033
6. STATE OF KERALA REPRESENTED BY ADDITIONAL CHIEF SECRETARY DEPARTMENT OF FINANCE , MAIN BLOCK, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay Exhibit P2 to Exhibit P5 proceedings of 1st respondent, also restraining it from proceeding against other bank accounts of the 1st and 2nd petitioners herein and further to direct the 4th respondent bank to unfreeze the bank account of the 2nd petitioner bearing Account Number S.B A/c No:19370100040837 (savings account) maintained at 4th respondent Federal Bank, Vembayam Branch, pending disposal of the writ petition(c).

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 27-10-2025 and upon hearing the arguments of M/S S.NIKHIL SANKAR & D.S.JAYACHANDRAN (KOLLEMCODE), Advocates for the petitioners and of SRI. SALIL NARAYANAN K.A., STANDING COUNSEL for R2 and R3, the court passed the following:

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V.G.ARUN, J

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Dated this the 3rd day of November, 2025**ORDER**

The challenge in this writ petition is against the order of the Special Deputy Tahsildar (Revenue Recovery), restraining the petitioners from operating their bank account. By the impugned order issued under Sections 19 and 80 of the Kerala Revenue Recovery Act, 1968 (hereinafter referred to as 'the Act'), the Manager of the Bank in which the petitioners are maintaining their account is also directed to recover the amount mentioned in the order from the petitioners' account and credit that amount to the account of the Special Deputy Tahsildar (RR). The order is issued at the instance of the Kerala State Financial Enterprises Limited ('KSFE' for short) from which the petitioners had availed loan and defaulted repayment.

2. Learned counsel for the petitioners contends that the loan is fully secured by mortgaging landed property as security

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and hence, the remedy of the KSFE is to proceed against that property. It is then contended that the provisions of the Revenue Recovery Act does not empower the Tahsildar to freeze the borrower's account. In support of the argument, reference is made to the Handbook of Schemes published by the KSFE and the observations of the Apex Court in ***Kesari Nandan Mobiles vs. Office of Assistant Commissioner of State Tax (2), Enforcement Divison-5*** [2025 INSC 983] that attachment of bank accounts is a draconian measure.

3. Learned Standing Counsel for the KSFE submitted that the extreme measure of freezing petitioners' bank account was taken since they had deliberately defaulted repayments and refused to respond to the revenue recovery notices. It is contended by the learned counsel that, as per Section 5, arrears of public revenue due on land can be recovered by attachment and sale of the defaulter's movable property and money in the bank being movable property, can be attached under Section 8 and also by resorting to Section 19 of the Act. It is also contended that money in a bank account is not excluded from attachment under Section 9 of the Act.

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4. The first question arising for consideration being whether a bank account can be attached under Section 8, the provision is extracted below for easy reference;

"8. Attachment of movable property (other than growing crops and ungathered products) in the possession of defaulter.-

(1) Where the property to be attached is movable property (other than growing crops and ungathered products) in the possession of the defaulter, the attachment shall be made by actual seizure. The officer employed to make the attachment shall, after making the attachment, deliver a copy of the demand in writing to the defaulter endorsing thereon a list or inventory of the property attached and the details of the place where it is lodged or kept; and in the copy of the demand delivered to the defaulter it shall be stated that the property attached will be immediately brought to public sale, unless the amount in arrear together with the interest and the cost of process be previously discharged.

Explanation .- For the purposes of this sub-section, touching of an article and declaring that it has been attached, shall be deemed to be attachment by actual seizure.

(2) The attachment shall, as far as possible, be made in the presence of two persons of the locality, other than Government servants, who shall be required to attest the list or the inventory of the property attached.

(3) When a defaulter is absent, a copy of the writing with the

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endorsement shall, immediately after the attachment, be left with some adult male member of his family living with him, or affixed at his usual place of residence or on the premises where the property was attached. “

5. A close scrutiny of Section 8 shows that the movable properties mentioned therein are tangibles. This position is made further clear by Section 9 providing for exclusion of certain articles. Moreover, Section 19 specifically deals with intangibles like debts and shares.

6. The next question therefore is whether bank accounts can be attached in exercise of the power under Section 19 of the Act. Being contextually relevant, Section 19 is extracted below;

“19. Attachment of debt, shares, etc.-(1) In the case of--

- (a) a debt not secured by a negotiable instrument; or
- (b) a share in a corporation; or
- (c) other movable property not in the possession of the defaulter except property deposited in or in the custody of any Court; the attachment shall be made by a written order of the Collector or the authorised officer prohibiting

- (i) in the case of the debt, the creditor from recovering the debt and the debtor from

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making payment thereof until the further order of the Collector or the authorised officer, as the case may be;

(ii) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(iii) in the case of the other movable property (except as aforesaid), the person in possession of the same from giving it over to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Collector or the authorised officer, as the case may be, and another copy shall be sent, in the case of the debt, to the debtor; in the case of the share, to the proper office of the corporation; and in the case of the other movable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-section (1) may pay the amount of his debt to the Collector or the authorised officer, as the case may be, and such payment shall discharge him as effectually as payment to the party entitled to receive the same."

7. Thus, Section 19 provides for attachment of intangibles like debts, shares and other movable property. The 'other movable

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properties' mentioned in Section 19(1)(c)(iii) will include bank accounts also. By exercising the power under Section 19(1)(c)(iii), the person in possession of movable property other than debt and share can be prohibited from giving it over to the defaulter. Being so, the Bank can be prohibited from releasing the amount from the account of the petitioners. Here, it will be apposite to note the decision in **State of Maharashtra v. Tapas D Neogy** [(1999) 7 SCC 685], wherein the Apex Court, in the context of Section 102 of the Code of Criminal Procedure, has held that the bank account of the accused can be treated as "property".

8. The remaining question is whether there can be a direction to transfer and credit the amount in the account of the borrower to the Tahsildar's account. Here I find merit in the contention of the counsel for the petitioners that no provision in the Revenue Recovery Act empowers the authorized officer to demand transfer of the amount in the borrower's account to the account of the authorized officer. In the absence of such power, the direction militates against Article 300A of the Constitution of India which protects a person from being deprived of his property except by authority of law.

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9. No doubt, as contended by the learned counsel for the petitioners, freezing of bank account is a draconian measure entailing serious consequences. Even if so, power being vested with the authorized officer to resort to such measure, this Court will not be justified in interfering with the direction. The contention that the loan being fully secured by mortgage of immovable property, proceedings cannot be initiated against the movable property, cannot be countenanced, since Section 5 gives the option of initiating any of the measures mentioned therein for recovering the arrears of public revenue due on land.

In the result, the operation of the impugned order to the extent it directs the Bank Manager to transfer the amount in the petitioners' account to the account of the authorized officer is stayed.

sd/-

V.G.ARUN, JUDGE

sj

APPENDIX OF WP(C) 39775/2025

- Exhibit P2** TRUE COPY OF THE ATTACHMENT NOTICE BEARING FILE NO:SDT/TVM/21747,21748,21502,21527,21529 OF THE 1ST RESPONDENT ISSUED TO THE 1ST PETITIONER DATED 18/08/2025
- Exhibit P3** TRUE COPY OF THE ATTACHMENT NOTICE BEARING FILE NO:SDT/TVM/21502,21527,21529 OF THE 1ST RESPONDENT ISSUED TO THE 2ND PETITIONER DATED 18/08/2025
- Exhibit P4** TRUE COPY OF THE COMMUNICATION BEARING REF: SDT/TVM/21502/2021- 2022 ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT BANK ATTACHING THE BANK ACCOUNT BANK ACCOUNT MAINTAINED AT FEDERAL BANK,VEMBAYAM BEARING S.B A/C NO:19370100040837 OF THE 2ND PETITIONER DATED 10/10/2025
- Exhibit P5** TRUE COPY OF THE COMMUNICATION BEARING REF: SDT/TVM/21502/2021-2022 ISSUED BY THE 1ST RESPONDENT TO THE 4TH RESPONDENT BANK DIRECTING THE TRANSFER OF AMOUNTS AVAILABLE IN THE BANK ACCOUNT MAINTAINED AT FEDERAL BANK,VEMBAYAM BEARING S.B A/C NO:19370100040837 OF THE 2ND PETITIONER DATED 10/10/2025 TO THE ACCOUNT MAINTAINED BY THE 1ST RESPONDENT

