IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

FRIDAY, THE 17TH DAY OF OCTOBER 2025 / 25TH ASWINA, 1947

WP(C) NO. 32541 OF 2025

PETITIONER/S:

1 M/S. M.D. ESTHAPPAN INFRASTRUCTURE PVT. LTD. ,
REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE,
MR. BIJI STEPEHEN HAVING ITS REGISTERED ADDRESS AT: 144,
RAILWAY STATION NAGAR, NEAR ST. JOSEPH HIGH SCHOOL,
ANGAMALY, ERNAKULAM, PIN - 683572

2 MR. M.D. ESTHAPPAN,
MANAGING DIRECTOR OF M.S. M.D. ESTHAPPAN INFRASTRUCTURE
PVT. LTD. THROUGH POWER ATTORNEY HOLDER MR. BIJI
STEPEHEN, S/O. DEVASSY, 14/306, MOOLAN
HOUSE, NH 47, NEAR ST. JOSEPH HIGH SCHOOL, ANGAMALY,
ERNAKULAM, PIN - 683572

BY ADVS.
SMT. MARIA NEDUMPARA
SHRI.SHAMEEM FAYIZ V.P.
SHRI.ROY PALLIKOODAM

RESPONDENT/S:

1 RESERVE BANK OF INDIA,
REPRESENTED BY ITS GOVERNOR SHAHID BHAGAT SINGH ROAD,
FORT, MUMBAI, PIN - 400001

2 BOARD OF DIRECTORS OF DHANLAXMI BANK LTD.,
REPRESENTED BY ITS CEO & MANAGING DIRECTOR, REGISTERED
OFFICE, DHANALAKSHMI BUILDINGS, P.B NO. 9, NAICKANAL,
THRISSUR, KERALA, PIN - 680001

3 DHANLAXMI BANK LTD,
REPRESENTED BY ITS CEO & MANAGING DHANALAKSHMI BUILDINGS,
P.B. NO. 9, NAICKANAL, THRISSUR, KERALA, PIN - 680001

4 AUTHORISED OFFICER & CHIEF MANAGER,
DHANLAXMI BANK LTD., REGIONAL OFFICE, DHANALAKSHMI BUILDINGS, 1ST FLOOR, MARINE DRIVE, KOCHI, KERALA, PIN - 682031

5 MINISTRY OF MICRO SMALL AND MEDIUM ENTERPRISES,
REPRESENTED BY ITS SECRETARY,UDYOG BHAWAN, RAFI MARG, NEW DELHI, PIN - 110001

6 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF FINANCIAL SERVICES, MINISTRY OF FINANCE, 3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD MARG, NEW DELHI, PIN - 110001

7 STATE OF KERALA ,
REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT ,THIRUVANANTHAPURAM, PIN - 695001

8 GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE, KAKKANADU,ERNAKULAM, PIN - 682030

9 CHAIRMAN,
MICRO AND SMALL ENTERPRISE FACILITATION COUNCIL (MSEFC),DIRECTORATE OF INDUSTRIES COMMERCE, VIKAS BHAVAN P.O, THIRUVANANTHAPURAM, KERALA, PIN - 695033

10 CHAIRMAN,
STATE LEVEL INTER-INSTITUTIONAL COMMITTEE,REGIONAL OFFICE, RESERVE BANK OF INDIA,BAKERY JUNCTION, P.B. NO. 6507, THIRUVANANTHAPURAM, PIN - 695033

11 GAIL (INDIA) LTD.,
REPRESENTED BY ITS GENERAL MANAGER, KINFRA HI- TECH PARK, OFF - HMT ROAD, HMT COLONY P.O., KALAMASSERY,ERNAKULAM, PIN - 683503

12 BHARAT PETROLEUM CORPORATION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, KOCHI REFINERY, AMBALAMUGAL,ERNAKULAM, PIN - 682302

13 COCHIN SMART MISSION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,10TH FLOOR, REVENUE TOWER, PARK AVENUE, ERNAKULAM, PIN - 682011

14 ADV. RASEENA P.R.,
ADVOCATE COMMISSIONER APPOINTED IN MC. NO.1319,IN THE FILES OF LD.ADDL. CJM, ERNAKULAM, ERNAKULAM BAR

ASSOCIATION, PIN - 682031

15 STATION HOUSE OFFICER,
ANKAMALY POLICE STATION, NEAR KSRTC STAND, ANKAMALY P.O., KOCHI, PIN - 683572

16 ANIL DHIRAJLAL AMBANI,
39, SEA WIND, CUFFE PARADE,COLABA, MUMBAI, PIN - 400005

17 MUKESH AMBANI,
CHAIRMAN, RELIANCE INDUSTRIES,3RD FLOOR, MAKER CHAMBERS IV, 222, NARIMAN POINT, MUMBAI, PIN - 400021

18 THE CHAIRMAN,
STATE BANK OF INDIA,CORPORATE CENTER, 16TH FLOOR, MADAM CAMA ROAD, NARIMAN POINT, MUMBAI, PIN - 400021

BY ADVS.
SHRI.C.K.KARUNAKARAN (R2 TO R4)
SHRI.BENRAJ K.R., CGC
SMT.LEKSHMI P. NAIR
SMT.SHIFNA MUHAMMED SHUKKUR
SMT.KRISHNA SURESH
SMT.MEKHA MANOJ
SHRI.ANIRUDH INDUKALADHARAN
SHRI.AJITH KRISHNAN, SC
SHRI.JITHESH MENON, SC
SHRI.M.U VIJAYALAKSHMI, SC
SHRI.ABEL TOM BENNY, SC

SRI.SREEJITH V.S GP
SMT O.M.SHALINA, DSGI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17.09.2025, THE COURT ON 17.10.2025 DELIVERED THE FOLLOWING:

MOHAMMED NIAS C.P., J.

..

WP(C) No.32541 OF 2025

..

Dated this the 17th day of October, 2025

JUDGMENT

This writ petition is filed by M/s. M.D.Esthappan Infrastructure Pvt. Ltd and M.D. Esthappan contending that they are a duly registered Micro, Small and Medium Enterprise (*hereinafter MSME*) under the Micro Small Medium Enterprises Development Act, 2006 (*hereinafter MSMED Act*), and hence entitled to the protection of the revival and rehabilitation framework notified by the Central Government through Notification dated 29.05.2015. They submit that the said framework, having statutory force, obliges all banks and financial institutions to refer stressed MSME accounts to a Committee for corrective measures—rectification, restructuring, and only thereafter recovery.

2. It is contended that the respondent Bank, in gross violation of this mandatory framework, classified the petitioners' account as a Non-

Performing Asset (NPA) and initiated coercive steps under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (hereinafter referred to as 'the SARFAESI Act') without first constituting or referring the matter to the Committee for Stressed MSMEs. The petitioners submit that such action is illegal, arbitrary, and void ab initio, as the statutory precondition to recovery was ignored. They rely on the judgment of the Hon'ble Supreme Court in ***Pro Knits v. Canara Bank*** [(2024) 10 SCC 292], wherein it was held that once MSME status is established prior to NPA classification, banks are bound to explore corrective steps under the framework before proceeding with recovery. The petitioners further contend that the Ext.P3 RBI Notification dated 17.03.2016, which restricts the application of the MSME framework to accounts with exposure/loan up to Rs. 25 crores, is ultra vires the parent legislation and cannot override the statutory notification issued by the Central Government. They argue that such an arbitrary cap undermines the objective of the MSMED Act and deprives genuine MSMEs of statutory protection. The denial of the framework's benefit has caused grave prejudice, financial loss, and reputational injury to the petitioners, defeating the very purpose of the MSMED Act, which recognises MSMEs as the dynamic sector of the Indian economy requiring support for revival and growth.

3. In the statement filed on behalf of respondents 2, 3, and 4, it is contended that the petitioners are guilty of suppression of material facts and have indulged in repeated and frivolous litigation. It is submitted that the writ petition is not maintainable, since Dhanlaxmi Bank Ltd., being a Scheduled Commercial Bank, is not an instrumentality of the State under Article 12 of the Constitution, and further, that writ petitions are not maintainable in matters arising under the SARFAESI Act.

3.1. The respondents submit that the petitioners had earlier challenged the RBI's Rs. 25 crore cap on restructuring in W.P.(C) No. 4631 of 2025, but, realising that the challenge would not succeed, withdrew it on 07.02.2025 with liberty to amend W.P.(C) No. 46514 of 2024. Accordingly, the petitioners filed I.A. No. 1 of 2025 in W.P.(C) No. 46514 of 2024, seeking to incorporate the said challenge. Though the amendment was allowed, the writ petition itself was dismissed by judgment dated 11.03.2025. The petitioners then preferred W.A. Nos. 481 and 484 of 2025, which were also dismissed by a Division Bench on 24.06.2025.

3.2. The respondents further point out that the petitioners approached the Hon'ble Supreme Court in S.L.P. No. 17263 of 2025, which was dismissed on 09.07.2025. Even their M.A. No. 1330 of 2025 seeking restoration of the dismissed SLP was rejected by order dated 28.07.2025, wherein the Apex Court categorically held that no case was made out to entertain the application. Simultaneously, the petitioners' Review Petitions Nos. 797 and 799 of 2025, filed against the judgment dated 24.06.2025 in W.A. Nos. 481 and 484 of 2025 were also dismissed by this Court on 28.07.2025.

3.3. Notwithstanding the above, the petitioners again filed W.P.(C) No. 17617 of 2025, which was dismissed on 28.07.2025, inter alia holding that ***Transcore v. Union of India*** (AIR 2007 SC 712) was correctly decided and that the writ was barred by constructive res judicata. Against this judgment, they preferred W.A. No. 1872 of 2025, which is still pending, and in which their earlier counsel had already relinquished vakalath.

3.4. The respondents contend that the petitioners, along with M.D. Esthappan has filed nearly 19 proceedings before the Hon'ble Supreme Court, this Court, the Bombay High Court, the DRT, Ernakulam, and the City Civil Court, Mumbai, most of which have been dismissed. As on 31.07.2025, a total amount of Rs. 42,45,73,281.75 remains due and recoverable from the petitioners and M.D. Esthappan.

3.5. The respondents submit that the present writ petition is clearly barred by res judicata and constructive res judicata, and is a gross abuse of the process of law, and has been filed only to delay repayment of huge dues. The petitioners, having failed in multiple rounds of litigation up to the Hon'ble Supreme Court, cannot be permitted to re-agitate the same issues. The writ petition deserves dismissal in limine with heavy costs.

4. The learned counsel for the petitioners contends that the respondent bank's only defence of res judicata or estoppel is untenable, as there can be no estoppel against law. They submit that the loans were

sanctioned as MSME loans after the bank verified their MSME registration, and that they had specifically pleaded this in their reply to the notice under Section 13(2), rendering the notice void ab initio. It is further argued that the issue regarding the applicability of the Ext. P3 RBI notification was never adjudicated on its merits in the earlier proceedings, and therefore, res judicata does not apply.

4.1. The petitioners further argue that the doctrine of res judicata is not intended to deny a litigant what is due to them without an adjudication on the merits of a right—statutory, equitable, or common law—but is founded on public policy. It means that even an erroneous decision of a competent court, rendered after observing natural justice and settled principles of law, must stand in the larger public interest to prevent endless litigation. Citing ***Minerva Mills v. Union of India*** (AIR 1980 SC 1789), it is submitted that the doctrine applies only where parties have had a fair opportunity to present their rival contentions and the matter has been fully adjudicated. The principle, evolved by Roman jurists like Ulpian, Modestinus, Gaius, Papinian, and Paulus, rests on the maxims *res judicata pro veritate accipitur* (a judicial decision must be accepted as true), *interest reipublicae ut sit finis litium* (it is in the State's interest that there be an end to litigation), and *nemo debet bis vexari pro una et eadem causa* (no one should be vexed twice for the same cause).

4.2. It further argues that for the doctrine of res judicata to apply, the following conditions, inter alia, must be complied with:

i. The court should have the jurisdiction to adjudicate the entire lis in question and bring it to finality. The judgment of the court should not lead to the termination of the lis. This Court, under Article 226, exercises a limited jurisdiction, which is a discretionary one, unlike the civil court.

ii. The court should have exclusive jurisdiction of the subject matter, and the controversy should be one that fell for its consideration collaterally.

iii. The lis should have been adjudicated on its merits in full, either actually or at least constructively.

iv. The court should have observed the principles of natural justice and allowed both parties to the lis an opportunity to adduce evidence and contradict the evidence appearing against them.

v. The matter in issue in the previous litigation and the subsequent litigation must be the same and ought not be distinct; in other words, the cause of action should be identical in every respect.

vi. Parties should have been the same.

vii. The cause of action ought to be the same.

viii. And most importantly, res judicata/estoppel by verdict concludes only questions of fact decided, and not questions of law.

4.3. It is further submitted that *Exceptio rei judicatae non aliter petenti obstat quam si eadem quaestio inter eosdem revocetur, itaque ita demum nocet si omnia sint eadem, idem corpus, eadem quantitas, idem jus, eadem causa petendi, eadem conditio personarum* - the rough translation being: the plea of res judicata does not bar a claimant unless the same question is raised again between the same parties; and thus it only operates as a bar if everything is the same; the same subject matter, the same amount, the same right, the same cause of action, and the same condition of the persons. Estoppel is an odious doctrine. If there is uncertainty as to whether the earlier judgment constitutes res judicata/estoppel, the doctrine of res judicata has no application. The reason is that res judicata is a technical doctrine whereby the law permits it to be treated as truth.

4.4. The core contention of the petitioner is that there is no estoppel against the law. The banks had acted in violation of the statutory prohibition and invoked SARFAESI. It was the duty of the courts to know the law *(iura novit curia)* and to give effect to the law and to quash and set aside the action of the bank in violation of the law. The failure to plead the law, nay, the protection under the notification, has led to the scenario where the existence or non-existence of the petitioners' rights under the MSMED Act and the notifications thereunder has not been adjudicated in the previous litigation.

4.5. The petitioner contends that proceedings under the SARFAESI Act or IBC have not attained finality and that each subsequent action, such as notices for taking possession or sale of property, gives rise to a fresh cause of action, thereby enabling the borrower or MSME to raise all available legal and factual contentions. It is argued that for res judicata to apply, the proceedings must have reached termination, which has not occurred here. Relying on Chief Justice Coke's observation (MM Bigelow, p. 88), it is urged that the doctrine must be construed strictly. The petitioner further cites ***A.R. Antulay v. R.S. Nayak and anr.*** [(1988) 2 SCC 602), ***Canara Bank v. N.G. Subbaraya Setty and anr. [***(2018) 16 SCC 228], ***Experion Developers v. Himanshu Diwan and ors.*** (2023 SCC OnLine SC 1029), and ***Anisminic Ltd. v. Foreign Compensation Commission*** (1968 App L.R. 12/17) ***Khoday Distilleries Limited and Ors v. Sri Mahadeshwara Sahakara Sakakre Karkhane Limited, Kollegal*** (2019 4 SCC 376)***, M/s Navinchandra Steels Pvt. Limited and anr. v. Union of India and ors.*** (WPC No. 4620/2022), ***Manisha Nimesh Mehta v. The Board of Directors of Technology Development Board and ors.*** (CA (L) No. 25072/2024), ***Shri Shri Swami Samarath Construction and finance solution and anr. v. The Board of Directors of NKGSB Co-op Bank Ltd. and Ors.*** (WPC No. 684/2025) and ***Holligton v. F. Hewthorn and Company Limited and Another*** (1 K.B 587) to elucidate the scope and foundation of the doctrine of estoppel by record and by verdict. Reference was made to the proposition that a judgment of a competent court, once final, operates as a bar between the same parties or their privies in respect of matters directly adjudicated, and that even in a subsequent proceeding on a different cause of action, an issue actually and necessarily decided in the earlier litigation cannot be reopened (issue estoppel). It was contended that the essential conditions for such estoppel are the identity of parties or privies, the competency of the earlier tribunal, the finality of the prior decision on the merits, and certainty of the subject matter.

4.6. Learned counsel further relied on the distinction drawn between judgments *in rem*, which bind all persons where the right has been conclusively determined, and judgments *in personam*, which bind only the parties and those claiming under them. It was urged that, save in cases of want of jurisdiction or fraud apparent on the face of the record, the conclusiveness of a judgment cannot be collaterally impeached, and that dismissals on preliminary or procedural grounds do not operate as res judicata, whereas a determination upon an issue essential to the decree, even though interlocutory, binds the parties. The argument thus advanced is that the doctrine of estoppel by record, rests on the larger principles of finality of litigation and consistency of judicial determinations, and precludes re-agitation of matters once finally and necessarily adjudicated between the same parties. Reliance is also placed on the authorities of *A Treatise on the Law of Estoppel and Its Application in Practice* by Melville M. Bigelow (4th Edn., 1886), Res judicata by Handley, 3rd Edn., (Page 272–73) and on Everest on Estoppel, to support the above propositions.

5. The learned counsel for the respondent Bank, apart from pointing out the previous litigations and reiterating their contentions, relies on the judgment in ***Celir LLP v. Sumati Prasad Bafna and ors*** [(2024) SCC OnLine SC 3727], in particular paragraphs 29 and 32, to contend that repeated filing is not only hit by the principles of constructive res judicata but also an abuse of process of law.

6. Heard Sri. Mathew J. Nedumpara, and Smt. Maria Nedumpara, learned counsel for the petitioners, and Sri. C.K. Karunakaran, learned counsel, appeared for the respondent Bank.

7. The earlier litigations of the petitioner before this Court,

wherein the contention claiming the protections to MSME were raised and considered, are as follows:

Sl.No.	Case Number	MSME Contentions	Details in Judgment
1	WPC No. 4631/2025, withdrawn on 07.2.2025	The petitioners challenged the RBI Notification No. FIDD.MSME & NFS.BC.No.21/06.02.31/2015-16 dated 17.03.2016 (Ext.P3) to the extent it restricted the revival and rehabilitation framework for MSMEs to accounts with exposure up to Rs. 25 crores. They argued that such a restriction was arbitrary and contrary to the MSMED Act, 2006, and that they were entitled to the statutory protection under the framework for stressed MSMEs notified on 29.05.2015.	The Court noted that the same petitioners had already raised the issue in W.P.(C) No. 46514 of 2024, where the bank had contended that their loan account exceeded the Rs. 25 crore limit. The Court held that the petitioners should have challenged Ext.P3 in that pending writ petition and not through a separate one. On request of the petitioner's counsel, the writ petition was dismissed as withdrawn with liberty to amend W.P.(C) No. 46514 of 2024 to incorporate the challenge to Ext.P3, expressly leaving open all contentions.
2	WPC No. 46514/2024, judgment dated 11.03.2025	The petitioners contended that they are MSMEs under the MSMED Act, 2006, and that all proceedings initiated by Dhanlaxmi Bank under SARFAESI were illegal since the bank had failed to follow the RBI-mandated "Framework for Revival and Rehabilitation of MSMEs" notified on 29.05.2015 (Ext. P2) and made binding through RBI Circular dated 17.03.2016 (Ext. P3). They argued that once a borrower is registered as an MSME, the bank must refer its account to the Committee for Stressed MSMEs before declaring it NPA, and that no recovery can proceed until rectification or restructuring is found unfeasible. They relied on *Pro Knits v. Canara Bank* (2024 10 SCC 292) and other precedents to assert that failure to constitute such a Committee rendered all SARFAESI actions void ab initio.	Held that the claims were barred by the rulings in *Pro Knits v. Canara Bank* and *P.K. Krishnakumar v. IndusInd Bank*, since the petitioners had not sought reference to the MSME Committee prior to their account being classified as NPA on 27.09.2024. The Court further noted that their loan exposure exceeded Rs. 25 crores, hence outside the scope of the MSME framework, which applies only to exposures up to Rs. 25 crores. It also found that petitioners had engaged in piecemeal and repetitive litigation before various fora. Following binding precedent

			and holding that the SARFAESI Act prevails over notifications under section. 9 MSMED Act, the writ petitions were dismissed, with the Court rejecting all reliefs sought.
3	W.A. 481 and 484 of 2025 in WPC No. 45166/2024, and in WPC No. 46514/2024, judgment dated 24.06.2025	1. Non-implementation of MSME Framework: Central Govt. and RBI failed to implement the notification dated 29.05.2015 mandating a "Committee for Stressed MSMEs". 2. Violation of MSME Protection: Banks could not classify MSME accounts as NPAs or proceed under SARFAESI/RDB/IBC without following the corrective action mechanism under the 2015 notification. 3. Supremacy of MSMED Act: MSMED Act, being a *special and later law,* prevails over SARFAESI, RDB, and IBC Acts; recovery can only follow the MSME rehabilitation process. 4. Unconstitutionality Challenge: Sections 13 of SARFAESI, 19 of RDB, and certain IBC provisions are unconstitutional for being one-sided in favour of banks.	The Division Bench, following *Pro Knits v. Canara Bank*, held that MSME protections must be invoked before an account is classified as NPA (or at the stage of incipient stress); a belated claim raised after classification cannot be used to derail SARFAESI/ recovery steps. Applying that dictum, the Court found the petitioners had sought MSME relief only after their accounts were declared NPA, so their plea was unsustainable. The Bench therefore reaffirmed that MSME notifications are facilitative only when acted upon at the proper stage, not a shield to be raised post-classification, and upheld the Single Judge's dismissal of the writs.
4	SLP No. 17263/2025	SLP was filed against W.A. No. 481 and 484 of 2025	Dismissed SLP on 09.07.2025
5	MA 1330/2025	Filed to restore the dismissed SLP.	Dismissed MA on 28.07.2025.
6	RP No. 797/2025 and 799/2025 in W.A. No. 481 of 2025 and 484 of 2025	The judgment sought to be reviewed is one rendered after taking note of the rival contentions on the law laid down by the Apex Court in Pro Knits [(2024) 10 SCC 292] and that laid down by the Division Bench of this Court in P.K. Krishnakumar [2024 SCC OnLine Ker 6888]. There is no error apparent on the face of the record,	Dismissed on 28.07.2025

		warranting an interference in the exercise of the review jurisdiction under Order XLVII Rule 1 of the Code.	
7	WPC No. 17617/2025	The petitioners, M.D. Esthappan Infrastructure Pvt. Ltd. and its Managing Director claimed to be registered MSMEs under the MSMED Act, 2006, and contended that the Dhanlaxmi Bank had violated the mandatory rehabilitation framework under the MSME Notification dated 29.05.2015 and the RBI Notification dated 17.03.2016 by classifying their account as NPA on 31.07.2023 without first initiating corrective action. They relied on *Pro Knits v. Canara Bank* [(2024) 10 SCC 292], asserting that the framework was obligatory and that the SARFAESI proceedings initiated thereafter were void. They also challenged the Bank's simultaneous recourse under SARFAESI and the RDB Act, contending that such dual proceedings were barred under Section 13(10) of SARFAESI and the proviso to Section 19(1) of the RDB Act, and violated principles of *ne bis in idem* and *res judicata*. The petitioners urged reconsideration of *Transcore v. Union of India* (AIR 2007 SC 712), arguing that it was wrongly decided and per incuriam.	Dismissed the writ petition on 28.07.2025, holding that the law laid down in *Transcore* and reaffirmed in *M.D. Frozen Foods* and *Sri Nangli Rice Mills* remained binding under Article 141. The Court held that SARFAESI and RDB Acts are complementary and simultaneous proceedings are legally permissible. It rejected the plea that *Transcore* was per incuriam and deprecated any deviation from settled precedent. The Court further found that the petitioners' earlier writ petitions (W.P.(C) Nos. 45166 and 46514 of 2024) and writ appeals (W.A. Nos. 481 and 484 of 2025) had already adjudicated the same MSME contentions, and that the present writ was barred by *constructive res judicata* and amounted to re-litigation. Citing *Celir LLP v. Sumati Prasad Bafna* (2024 SCC OnLine SC 3727), the Court reaffirmed that MSME registration does not bar NPA classification or recovery under SARFAESI and dismissed the writ petition as meritless and repetitive.
8.	W.A No.1872 of 2025 in WPC No. 17617/2025	Filed against the judgment dated 28.07.2025 in WPC No. 17617/2025	When the case was posted for arguments vakalath for the appellants (petitioners) was relinquished by the counsel. The following order was passed by the learned Division Bench of this Court on 31.07.25:

			"*After arguing for sometime, Adv. Mathew J. Nedumpara, the learned counsel would submit that he is relinquishing vakalat for the appellants writ petitioners.*" The same is now posted to 30.10.2025 for arguments by the new Counsel.

8. Despite the argument of the learned counsel for the petitioner based on judgments and the textbooks cited above that the writ petition is not barred by res judicata or estoppel, the same has to fail for the reasons to follow. This writ petition with the same prayer between the same parties stood considered and negatived earlier, and the petitioner, having failed, is further estopped from re-agitating the identical issue by instituting successive writ petitions, as it is barred by the principles of res judicata as well as constructive res judicata. It is trite that res judicata and constructive res judicata apply with full force to writ proceedings, and earlier rejection bars a second petition unless there are changed circumstances. A change of form or rephrasing of relief cannot defeat the principle of res judicata or constructive res judicata.

9. The doctrine of res judicata, rooted in Section 11 of the Code of Civil Procedure, and reinforced by public policy, mandates that a matter

once finally adjudicated by a competent court cannot be reopened between the same parties. Explanation IV to Section 11 embodies the principle of constructive res judicata, deeming that every matter which might and ought to have been made a ground of claim or defence in the earlier proceedings shall be treated as directly and substantially in issue therein. Even an erroneous or mistaken decision on a question of law or fact operates as res judicata between the same parties, for what binds is not the correctness of the reasoning but the finality of the decision itself. The rule extends to issues of fact, law, and mixed questions alike. While doctrines such as estoppel, waiver, and acquiescence are conceptually distinct, they often reinforce the bar of res judicata when a party knowingly permits a state of affairs to continue. Ultimately, the principle upholds the rule of law and judicial finality, preventing multiplicity of proceedings, conserving judicial time, and protecting parties from being vexed twice over the same cause. Certainty of the law, consistency of decisions and comity of courts, all flowering from the same principle converge to the conclusion that a decision once rendered must later bind like cases, ie, a prior decision rendered by a competent court on identical facts and law is binding in subsequent proceedings on the same points, and such a decision must govern later cases unless shown to be per incuriam or rendered in manifest error. (see: ***Forward Construction Co. v. Prabhat Mandal (Regd.) Andheri*** (1986 KHC 598); ***Kalinga Mining Corpn. v. Union of India*** ((2013) 5 SCC 252); ***Canara Bank v. N.G. Subbaraya Setty*** ((2018) 16 SCC 228); ***Celir LLP v. Sumati Prasad Bafna*** (2024 SCC OnLine SC 3727); ***P.K. Krishnakumar v. IndusInd Bank*** (2024 SCC OnLine Ker 6888) and ***Darayao v. State of U.P.*** (AIR 1961 SC 1487), ***Mamleshwar Prasad and anr. v. Kanhaiya Lal*** **(Dead) Through L.Rs** [(1975) 2 SCC 232].

10. In the instant case, the issue raised in this writ petition was directly and substantially in issue in the earlier litigations referred to above. While matters collaterally or incidentally in issue may not ordinarily operate as res judicata, matters directly or substantially considered in the prior decision constitute res judicata. The petitioners cannot dispute the multiple earlier proceedings instituted by them and the judgments rendered against them up to the Hon'ble Supreme Court. Their attempt to re-agitate the same grounds is clearly barred.

Accepting the contentions on behalf of the petitioners would mean that a litigant can go on filing cases despite dismissal of their pleas if they feel that the decision is wrong, even without filing an appeal, and it will be the litigant's understanding that decides the maintainability of the subsequent challenge and not the interparte judgments. True, each sale notice may furnish a fresh cause of action; even then, an adjudication on the points already raised and rejected, is legally impermissible..

11. The Supreme Court has also consistently condemned repeated and piecemeal litigation as a serious abuse of the judicial process. In ***Celir LLP v. Sumati Prasad Bafna*** (supra), the Court comprehensively articulated that re-litigation on the same cause or issues, whether by re-agitating decided matters, raising issues that could or should have been raised earlier, or fragmenting claims across multiple proceedings, constitutes a textbook case of abuse of process under the Henderson principle. The Court made clear that merely changing the form or forum of such proceedings does not alter their oppressive and repetitive nature.

12. None of the principles argued by the learned counsel for the petitioner based on the authorities referred above holds that a writ petition can be filed by the same person raising the same contentions against the same adversary. None of the exceptions stated for avoiding principles of res judicata applies to the instant case. The litigations having lost up to the Apex Court, a reconsideration on the merits of the present case cannot be made.

For the following reasons, I find no merit in this writ petition, and the same would stand dismissed.

SD/-

MOHAMMED NIAS C.P.

JUDGE

JJ

APPENDIX OF WP(C) 32541/2025

PETITIONER EXHIBITS

Exhibit P1	A COPY OF THE UDYAM REGISTRATION CERTIFICATE NO. UDYAM-KL-02-0015023 DATED 27.03.2021, ISSUED TO THE PETITIONER NO. 1 BY THE MSME MINISTRY, GOVERNMENT OF INDIA
Exhibit P2	A COPY OF THE MSME NOTIFICATION NO. S.O.1432 (E) DATED 29.05.2015
Exhibit P3	A COPY OF THE RBI NOTIFICATION NO. RBI NOTIFICATION NO. FIDD.MSME & NFS.BC.NO. 21/06.02.31 /2015-16, DATED 17.03.2016
Exhibit P4	A TRUE COPY OF THE EMAIL COMMUNICATION DATED 13.09.2021,BETWEEN THE PETITIONERS AND THE RESPONDENT-BANK
Exhibit P5	A TRUE COPY OF THE DEMAND NOTICE DATED 16.08.2023 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS,
Exhibit P6	A TRUE COPY OF THE OBJECTION DATED 11.10.2023 ISSUED BY THE PETITIONERS TO THE 4TH RESPONDENT,
Exhibit P7	A TRUE COPY OF THE REPLY DATED 18.10.2023, ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS
Exhibit P8	A TRUE COPY OF THE LETTER DATED 25.10.2023 ISSUED BY THE PETITIONERS TO THE 4TH RESPONDENT
Exhibit P9	A TRUE COPY OF THE POSSESSION NOTICE DATED 31.10.2023 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS
Exhibit P10	A TRUE COPY OF THE LETTER DATED 02.11.2023 ISSUED BY THE PETITIONERS TO THE 4TH RESPONDENT
Exhibit P11	A TRUE COPY OF THE LETTER DATED 03.11.2023 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS
Exhibit P12	A TRUE COPY OF THE SALE-NOTICE DATED 25.06.2024 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONERS
Exhibit P13	A TRUE COPY OF THE ORDER DATED 22.01.2025 PASSED BY THE LD. CJM, ERNAKULAM
Exhibit P14	A TRUE COPY OF THE JUDGEMENT DATED 27.11.2023 IN W.P. (C) NO. 38732/2023 BY THE HON'BLE HIGH COURT OF KERALA
Exhibit P15	A TRUE COPY OF THE JUDGEMENT DATED 24.06.2024 IN W.P. (C) NO. 22424/2024 BY THE HON'BLE HIGH

	COURT OF KERALA
Exhibit P16	A TRUE COPY OF THE ORDER DATED 11.12.2024 IN W.P. (L) NO. 35456/2024 BY THE HON'BLE BOMBAY HIGH COURT
Exhibit P17	A COPY OF THE JUDGEMENT DATED 11.03.2025 PASSED IN W.P.(C) NO. 46514 OF 2024
Exhibit P18	A CHART DETAILING THE VARIOUS PROCEEDINGS INITIATED BY THE PETITIONER
Exhibit P19	A TRUE COPY OF THE CASE DETAILS OF THE OA NO.104/2025, EXTRACTED FROM THE DRT WEBSITE
Exhibit P20	A COPY OF THE NOTIFICATION NO. S.O 2119 (E) DATED 26.6.2020 ISSUED BY THE GOVERNMENT OF INDIA
Exhibit P21	A COPY OF THE NOTICE DATED 05.08.2025, PASTED ON THE WALL OF THE PETITIONERS' PROPERTIES
Exhibit P22	A COPY OF THE ORDER OF NCLT_I, MUMBAI, DATED 19/12/2023 IN IA 2429/2021 IN CP(IB) NO.3025(MB) OF 2019
Exhibit P23	A COPY OF THE ORDER OF NCLT_I, MUMBAI, DATED 18/02/2024 IN IA 54/2024 IN CP(IB) NO.845(MB) OF 2022
Exhibit P24	A COPY OF THE ORDER DATED 15.07.2025 OF NCLT-I, MUMBAI PASSED IN IA 1773/2024 IN CP(IB) NO.916 OF 2020

RESPONDENT EXHIBITS

Exhibit R4(a)	THE TRUE COPY OF THE JUDGEMENT DATED 07.02.2025 IN WP(C) NO.4631 OF 2025
Exhibit R4(b)	THE TRUE COPY OF IA NO.1 OF 2025 FILED BY THE WRIT PETITIONERS IN WP(C) NO. 46514 OF 2024
Exhibit R4(c)	TRUE COPY OF THE MEMORANDUM OF AMENDED WRIT PETITION IN WP(C) NO. 46514 OF 2024
Exhibit R4(d)	THE TRUE COPY OF THE JUDGEMENT DATED 11.03.2025 IN WP(C) NO. 46514 OF 2024
Exhibit R4(e)	THE TRUE COPY OF JUDGEMENT DATED 09.07.2025 IN SLP NO. 17263 OF 2025 BEFORE THE HON'BLE SUPREME COURT
Exhibit R4(f)	THE TRUE OF COPY OF THE ORDER DATED 28.07.2025 IN MA 1330 OF 2025 IN SLP NO. 17263 OF 2025