

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WA.No. 274 of 2015 IN WP(C).29352/2014

AGAINST THE JUDGMENT IN WP(C) 29352/2014 DATED 18-12-2014

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APPELLANTS/PETITIONERS IN THE W.P.(C) :

1. RAJI R NAIR
RENJU NIVAS, KIZHATHADIYOOOR P.O., MONNANI
PALA-686 575
2. RAMACHANDRAN NAIR,
RENJU NIVAS, KIZHATHADIYOOOR P.O., MONNANI
PALA-686 575

BY ADV. SRI.K.V.GOPINATHAN NAIR

RESPONDENTS/RESPONDENTS IN THE W.P.(C) :

1. THE MANAGER, STATE BANK OF INDIA, PALA-686 575
2. DEPUTY TAHSILDAR, REVENUE RECOVERY OFFICE
PALA-686 575

R1 BY ADV. SRI.M.JITHESH MENON

R2 BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.A. No. 274 OF 2015

Dated this the 3rd day of March, 2015

JUDGMENT

Ashok Bhushan, Ag.C.J.

This writ appeal has been filed against the judgment dated 18.12.2014 passed by learned Single Judge in W.P.(C) No.29352 of 2014.

2. The petitioner by the writ petition challenged the recovery proceedings initiated by the Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) with regard to realisation of two educational loans. The second petitioner is the father and first petitioner is the daughter for whom the education loan was taken. Learned Single Judge has noted that the outstanding liability as on 13.12.2014 is nearly Rs.2,63,271/-. Learned Single Judge permitted the petitioner to deposit the amount in 12 equal monthly instalments. Learned counsel for the petitioner submits that the petitioner is a driver

by profession and having regard to the salary which he is earning, it is impossible to clear the outstanding liability in 12 monthly instalments. It is submitted that the first petitioner was not able to secure a job, though the period of one year has expired. Learned counsel for the appellant submits that he is ready to clear the entire outstanding along with the upto date interest provided, the period is extended for a further period of one year.

3. Heard learned counsel for the respondent also, who opposes the above request and contends that sufficient time has been granted.

4. Considering the fact that the second petitioner is only a driver earning a meager salary, we dispose of the writ appeal modifying the judgment of learned Single Judge as under:

Petitioner shall be permitted to deposit the entire outstanding amount in monthly instalments along with up to date interest in two years ending with 31.12.2016. If default

is committed by the petitioner, it shall be open for the Bank to proceed further in accordance with law.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**