

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

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

WA.No. 404 of 2015 IN WP(C).16217/2014

AGAINST THE JUDGMENT IN WP(C) 16217/2014 DATED 26/06/2014

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APPELLANT/PETITIONER :

SUSAN MATHEW, AGED 43 YEARS
W/O.MATHEW, PERUMOOTIL HOUSE, MO WARD
ALAPPUZHA.

BY ADVS.SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN
SMT.T.J.SEEMA

RESPONDENTS/RESPONDENTS :

1. THE AUTHORISED OFFICER (CHIEF MANAGER),
STATE BANK OF TRAVANCORE, SME ALAPPUZHA BRANCH
ALAPPUZHA-688 001.
2. STATE BANK OF TRAVANCORE,
SME ALAPPUZHA BRANCH, ALAPPUZHA-688 001.

R BY SRI.SANTHOSH MATHEW

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03-03-2015,
ALONG WITH W.A. No.405/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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

W.A. Nos. 404 and 405 OF 2015

Dated this the 3rd day of March, 2015

JUDGMENT

Ashok Bhushan, Ag.C.J.

These two writ appeals have been filed against similar order passed in two different writ petitions, viz W.P.(C) Nos.16217 and 16218 of 2014 dated 26.06.2014.

2. The Bank has initiated SARFAESI proceedings against the petitioner which was challenged in the writ petition. The petitioners in the writ petition stated that they are ready to clear the entire amounts provided, time is allowed. The learned Single Judge disposed of the writ petitions permitting the petitioners to settle the entire loan amount in 12 equal monthly instalments and the first instalment has to be paid on or before 25.07.2014. Petitioner paid certain instalments but committed default hence prayed for extension of time.

3. The learned Single Judge considered the Interlocutory Applications filed in both the writ petitions and by a common order dated 17.12.2014 allowed the petitioner to pay the arrears up to 25.11.2014 along with the instalment due on 25.12.2014. The petitioners have come up in writ

appeals against the order of learned Single Judge dated 17.12.2014 passed in the Interlocutory Applications. Learned counsel for the appellant submits that the liability being huge, the petitioners have, after taking bona fide efforts, made substantial payment. However, default is still there, and in the event, if the bank is permitted to proceed against the petitioners, then their mortgaged property will be sold and they will be thrown to the street. He submits that the petitioners accept the entire loan amount and is ready to pay it along with interest, if some more time is allowed.

4. Considering the fact that the petitioners have deposited certain instalments pursuant to the judgment passed by learned Single Judge, we are of the opinion, one more opportunity can be granted to the appellants to clear the outstanding amount.

In the above view of the matter, we dispose of the Writ Appeals as follows:

i) The bank shall intimate the outstanding dues of the appellants in these cases by 15.03.2015.

ii) The outstanding amount along with interest shall be paid by the appellant in equal monthly instalments beginning from 30th March 2015 ending with 31.12.2016. the amount to be paid on or before the end of the month.

iii) Subject to the payment as above, further coercive action shall be kept in abeyance.

iv) In any event, if any default is committed, it shall be open for the Bank to proceed with the SARFAESI proceedings.

**Ashok Bhushan,
Acting Chief Justice.**

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

WA Nos. 404 & 405 of 2015

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