

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WA.No. 1109 of 2015 IN WP(C).6600/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 6600/2014 DATED 03-06-2014
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APPELLANT/PETITIONER :

KANCHANA K.P., AGED 58 YEARS
W/O.CHANDRAN K.P., RESIDING AT KANCHANA PALACE
THURAYOOR P.O., KOZHIKODE DISTRICT.

BY ADVS.SRI.M.P.KRISHNAN NAIR
SMT.RAJESWARI KRISHNAN

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY
MINISTRY OF CO-OPERATIVE SOCIETIES
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
2. THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
(NO.F 1635), HEAD OFFICE: (RECOVERY DIVISION)
P.B.NO.503, KALLAI ROAD, P.O.CHALIPPURAM
KOZHIKODE-673 002. REPRESENTED BY ITS
AUTHORISED OFFICER/SENIOR MANAGER.
3. THE AUTHORISED OFFICER/SENIOR MANAGER
THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.
(NO.F 1635), HEAD OFFICE: (RECOVERY DIVISION)
P.B.NO.503, KALLAI ROAD, P.O.CHALLIPPURAM
KOZHIKODE-673 002.

R1 BY SR.GOVERNMENT PLEADER, SRI.C.R. SYAM KUMAR.
R2 & R3 BY ADV. SRI.R.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK LTD.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 1109 OF 2015

Dated this the 1st day of October, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard learned counsel for the appellant and learned Standing Counsel appearing for the Bank.

2. This writ appeal has been filed against the judgment dated 03.06.2014 passed by learned Single Judge in W.P.(C) No.6600 of 2014 by which the writ petition, filed by the appellant challenging the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act), has been dismissed.

3. By the writ petition the petitioner has prayed for quashing Ext.P2 notice under Section 13(2) under the SARFAESI Act. The Bank has already invoked Section 13(4) on 31.03.2014 as submitted by learned counsel for the Bank. Learned Single Judge disposed of the

writ petition permitting the petitioner to deposit the amount in 12 monthly installments as per the conditions imposed in the judgment. Petitioner, dissatisfied with the judgment, has come up with this appeal.

4. One of the submissions which has been pressed by learned counsel for the appellant is that the property which was mortgaged is an agricultural property and SARFAESI Act, 2002 cannot be invoked with regard to agricultural property. He further disputes the figure which is claimed by the Bank, as outstanding against the petitioner. We are of the view that such issues which are raised in this appeal are issues which require consideration of evidence and for which there is a statutory remedy available to the petitioner by filing an application under Section 17 of the SARFAESI Act before the Debt Recovery Tribunal. Admittedly the petitioner has not deposited the amount as per the direction issued by learned Single Judge.

In view of the aforesaid, we dismiss the Writ Appeal with liberty to the petitioner/appellant to avail the statutory remedy as provided under Section 17 of SARFAESI Act.

**Ashok Bhushan,
Chief Justice.**

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