

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WA.No. 1563 of 2015 () IN WP(C).19866/2015

**AGAINST THE ORDER/JUDGMENT IN WP(C) 19866/2015 of HIGH COURT OF KERALA
DATED 02-07-2015**

APPELLANT(S)/RESPONDENTS:

- 1. THE KASARAGOD DISTRICT CO-OPERTIVE BANK LTD
KASARAGOD MAIN BRANCH, KASARAGOD DISTRICT 671121
REPRESENTED BY ITS MANAGER.**
- 2. THE AUTHORISED OFFICER UNDER THE SARFAESI ACT
THE KASARAGOD DISTRICT CO-OPERATIVE BANK LTD
HEAD OFFICE, KASARAGOD, P.B.NO.48
NAYAK'S ROAD, KASARAGOD DISTRICT 671 121.**

BY ADV. SRI.JAWAHAR JOSE

RESPONDENT(S):

**ABDUL SAHIL AGED 44 YEARS
S/O.RAHMATH, ISRATH MANZIL, MANAL
POST CHEMMANAD PO, KASARAGOD 671 317.**

BY ADV.SRI.S.JIJI

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A.No. 1563 of 2015

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Dated this, the 21st day of July, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellants as well as the learned counsel appearing for the respondent/writ petitioner.

2. This writ appeal has been filed against judgment dated 2nd July, 2015 in WP(C) No.19866/2015. Petitioner, who is the borrower, had filed the writ petition challenging the proceeding initiated by the Bank under SARFAESI Act, 2002. Learned Single Judge disposed of the writ petition directing the petitioner to start making payment of ₹50,000/- per month w.e.f. 1st August, 2015 and the entire liability was to be discharged in the succeeding month.

3. Learned counsel for the appellants submits that the total liability as on 30th June, 2015 was ₹7,31,202/- and the learned Single Judge ought to have directed to clear the entire liability in 7 equal instalments. Learned counsel for the appellants

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submits that the writ petitioner is ready to deposit and clear the entire liability in equal instalments provided he is given facility of 10 instalments. It is also submitted that a third party had filed OS No.36/2013 in which the property is under attachment.

4. Be that as it may, we are of the view that direction Nos. 1 and 2 issued by the learned Single Judge needs to be modified by the following directions;

(A) Petitioner shall clear the entire outstanding liability in 10 equal monthly instalments, the first instalment beginning from 1st August, 2015.

With the above modification, this writ appeal is disposed of.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge