

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 2799 of 2015 (Y)

PETITIONER(S):

**PURUSHOTHAMAN NAIR, AGED 40 YEARS,
S/O. SUKUMARAN NAIR, ROADARIKATHU PUTHEN VEEDU,
KAVALLOOR, AANAVOOR P.O., KUTTIYANIKADU DESOM,
KEEZHAROOR VILLAGE.**

BY ADV. SRI.R.GOPAN.

RESPONDENT(S):

- 1. THE BRANCH MANAGER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
VELLARADA BRANCH, PIN-695 001.**
- 2. AUTHORISED OFFICER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
HEAD OFFICE, THIRUVANANTHAPURAM-695 001.**
- 3. SURESH KUMAR, S/O. THAMPI,
PAATTAVILAKATHU PUTHEN VEEDU,
MULAMOODU P.O., PIN-629 167, PANAKKODU DESOM,
KALKKULAM VILLAGE, KANYAKUMARI DISTRICT.**
- 4. RAJASEKHARAN NAIR, SEKHARAVILASOM,
KAVALLOOR P.O., KIZHAROOR VILLAGE,
NEYYATTINKARA TALUK, PIN-695 121.**
- 5. PONNAMMA, D/O. GOURI AMMA,
SEKHARAVILASOM PUTHEN VEEDU,
KAVALLOOR, AANAVOOR P.O., KUTTIYANIKKADU DESOM,
KEEZHAROOR VILLAGE, PIN-695 001.**

**R1 & R2 BY ADV. SRI.T.R.HARIKUMAR, SC.
R3 TO R5 BY ADVS. SRI.V.G.ARUN (NEYYATTINKARA),
SRI.RENJITH B.MARAR.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 : COPY OF THE PASSBOOK OF THE PETITIONER ISSUED BY THE RESPONDENT BANK.
- P2 : COPY OF THE SALE DEED NO.1788/02 DTD. 29.10.2002 OF PERUMKADAVILA SUB REGISTRY.
- P3 : COPY OF THE SALE DEED NO.1546/08 DTD. 02.09.2008 OF PERUMKADAVILA SUB REGISTRY.
- P4 : COPY OF THE TAX RECEIPT DTD. 23.11.2013 ISSUED BY THE VILLAGE OFFICER, KEEZHAROOR VILLAGE OFFICE.
- P5 : COPY OF THE POSSESSION NOTICE DTD. 08.11.2011 ISSUED BY THE 2ND RESPONDENT TO THE 5TH RESPONDENT.
- P6 : COPY OF THE MAHAZAR PREPARED BY THE RESPONDENT BANK DTD. 08.11.2011.
- P7 : COPY OF THE CASH RECEIPT ISSUED BY THE RESPONDENT BANK TO THE PETITIONER FOR RS.20,000/- DTD. 29.11.2011.
- P8 : COPY OF SALE NOTICE DTD. 26.12.2014 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J.

W.P.(C). No. 2799 of 2015

Dated this the 25th day of June, 2015

J U D G M E N T

The petitioner appears to be a purchaser from the original borrower of the respondent Bank. It seems that the original borrower had effected number of transactions in respect of the property after the mortgage. The original borrower did not remit the loan amount due to the Bank and the Bank initiated SARFAESI proceedings.

2. Learned counsel for the petitioner submits that, the Bank is selective in proceeding with SARFAESI proceedings. The Bank has singled out the party respondent and proceed against petitioner's property.

3. Learned counsel for the Bank submits that, they have proceeded against the entire property and the total liability is more than ₹4.5 lakhs.

4. It appears that the petitioner has already remitted ₹50,000/- as directed by this Court. Taking into the facts and circumstances, the following directions are issued:

(i) The Bank shall proceed against the entire property

mortgaged by the original borrower and shall take necessary steps.

(ii) If the petitioner is willing to discharge the entire liability and makes an undertaking to the Bank, in such case the petitioner shall be given sufficient instalment to pay the liability.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn