

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 3445 of 2015 (E)

PETITIONER(S):

**SULEKHA .T.T., W/O. BALAKRISHNAN,
AGED 47 YEARS, KANNANTHARAYIL HOUSE,
KUZHIKADU, AMBALAMEDU P.O.,
ERNAKULAM DISTRICT - 682 303.**

**BY ADVS.SRI.K.C.SANTHOSHKUMAR,
SMT.K.K.CHANDRALEKHA.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM - 695 001.**
- 2. STATE BANK OF TRAVANCORE,
AMBALAMUGAL BRANCH (70162), MALOTH BUILDING,
AMBALAMEDU P.O., ERNAKULAM DISTRICT - 682 303,
REPRESENTED BY ITS BRANCH MANAGER,
AMBALAMUGAL BRANCH.**
- 3. THE CHIEF MANAGER (ADVANCE),
(AUTHORISED OFFICER UNDER SARFAESI ACT, 2002),
THE STATE BANK OF TRAVANCORE,
AMBALAMUGAL BRANCH (70162), MALOTH BUILDING,
AMBALAMEDU P.O., ERNAKULAM DISTRICT -682 303.**
- 4. BALAKRISHNAN K.,
S/O. KUTTAPPAN, KANNANTHARAYIL HOUSE, KUZHIKADU,
AMBALAMEDU P.O., ERNAKULAM DISTRICT - 682 303.**

**R1 BY GOVT. PLEADER SRI.R. RANJITH.
R2 & R3 BY ADVS. SRI.SANTHOSH MATHEW,
SRI.SATHISH NINAN.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 - TRUE COPY OF THE PUBLIC AUCTION NOTICE DATED 18.01.2015.
- EXT.P2 - TRUE COPY OF THE POSSESSION NOTICE DATED 13.10.2014.
- EXT.P3 - TRUE COPY OF THE REPRESENTATION DATED 20.01.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- ANNEXURE A COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER ALONG WITH THE ENDORSEMENT MADE BY THE DISTRICT COLLECTOR, ERNAKULAM.
- ANNEXURE B COPY OF THE MEDICAL CERTIFICATE DATED 01/09/2015 ISSUED FROM LISSIE HOSPITAL, ERNAKULAM.
- ANNEXURE C COPY OF THE AUCTION SALE NOTICE DATED 25/08/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.3445 of 2015

Dated this the 18th day of November 2015

JUDGMENT

The petitioner, who is the owner and in possession of land in Puthenkurisu village, is aggrieved by the steps taken by the respondent bank, for realisation of the defaulted loan amounts that were advanced to her husband, who is the principal borrower. Ext.P2 is the possession notice that was issued by the respondent bank. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the respondent bank.

3. Counsel for the respondent bank would submit that on many occasions in the past, the bank had initiated steps to recover the defaulted amounts and the petitioner has been approaching the bank with a request for keeping those steps in abeyance, with a promise of providing funds, but the same has not materialised. I note from the proceedings in the instant case that the parties were

also relegated to mediation to explore the chances of settlement, but the same also did not meet with any success. Under the said circumstances, I am of the view that no further time need to be granted to the petitioner. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total outstanding amount, in respect of the loan, is stated to be approximately Rs.8,00,000/-, as on today. Accordingly, if the petitioner remits the aforesaid amount of Rs.8,00,000/- in twelve equal and successive monthly installments, commencing from 10.12.2015, then the recovery steps initiated against her by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

(iii) It is made clear that nothing in this judgment shall stand in the way of the petitioner approaching the respondent bank with an application for One Time Settlement scheme and the respondent bank from considering the same, in accordance with law.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/