

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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

W.P(C).No.3814 of 2015(B)

PETITIONERS:

1. VINCENT BENEDICT, AGED 62 YEARS,
S/O.LATE K.A.BENEDICT, GEETHIKA, THRIPPERUMTHURA P.O.,
CHENNITHALA-690105, MAVELIKKARA.
2. VANAJA VINCENT, AGED 47 YEARS,
W/O.VINCENT BENEDICT, PROPRIETRIX, M/S.NAYANA GARMENTS
GEETHIKA, THRIPPERUMTHURA P.O., CHENNITHALA-690105
MAVELIKKARA.

ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENTS:

1. UNION OF INDIA,
REP.BY ITS SECRETARY, DEPT. OF BANKING AFFAIRS
NEW DELH-11001.
2. SOUTH INDIAN BANK LTD.,
REGIONAL OFFICE, 2ND FLOOR, T.M.J.COMPLEX,
RAMANCHIRA, P.O.MUTHOOR, THIRUVALLA-689107
REP.BY ITS CHIEF MANAGER.
3. THE AUTHORISED OFFICER,
SOUTH INDIAN BANK LTD., REGIONAL OFFICE, 2ND FLOOR
T.M.J.COMPLEX, RAMANCHIRA, P.O.MUTHOOR
THIRUVALLA-689107.

BY ADV. SRI.N.NAGARESH, ASST. SOLICITOR GENERAL, FOR R1
ADV. SRI.K.K.JOHN, SC, SOUTH INDIAN BANK, FOR R2 & R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21.07.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.3814/15(B)

APPENDIX

PETITIONER'S EXHIBITS

- EXT-P1: TRUE PHOTOSTAT COPY OF THE DEMAND NOTICE DATED 19.06.2009.
- EXT-P2: TRUE PHOTOSTAT COPY OF THE JUDGMENT DATED 16.07.2010 IN W.P. (CIVIL) NO.20842/2010 PASSED BY THIS HONOURABLE COURT.
- EXT-P3: TRUE PHOTOSTAT COPY OF THE SECTION 13(2) NOTICE DATED 11.07.2013 PERTAINING TO THE LOAN OF THE 2ND PETITIONER.
- EXT-P4: TRUE PHOTOSTAT COPY OF THE SECTION 13(2) NOTICE DATED 31.01.2014 IN RELATION TO THE HOME LOAN.
- EXT-P5: TRUE PHOTOSTAT COPY OF THE POSSESSION NOTICE DATED 24.10.2014.
- EXT-P6: TRUE PHOTOSTAT COPY OF THE NEWS ITEM PUBLISHED ON 22.11.2014 OFFERING FOR SALE THE RESIDENTIAL ABODE OF THE PETITIONERS.
- EXT-P7: TRUE PHOTOSTAT COPY OF THE NEWS ITEM DAILY MALAYALA MANORAMA DATED 27.12.2014.
- EXT-P8: TRUE PHOTOSTAT COPY OF THE LETTER OF REQUEST DATED 10.01.2015.
- EXT-P9: TRUE PHOTOSTAT COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE 2ND RESPONDENT.
- EXT.P10:TRUE PHOTOSTAT COPY OF THE NOTICE OF DEMAND ISSUED BY THE COMMISSIONER DATED 14.07.2015.

RESPONDENTS' EXHIBITS:

- ANNEXURE R1: COPY OF THE ACCOUNT NO.0271654000000096 IN THE NAME OF THE FIRST PETITIONER
- ANNEUXRE R2: COPY OF THE ACCOUNT NO.02710830000000268 IN THE NAME OF NAYANA GARMENTS THE PROPRIETARY CONCERN OF THE SECOND PETITIONER

//TRUE COPY//

PA TO JUDGE

PtK/

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.3814 of 2015

Dated this the 21st day of July, 2015

J U D G M E N T

The petitioners availed two loans from the respondent Bank. Due to default in repaying the same, the Bank initiated 'SARFAESI' proceedings. The petitioners' only prayer before this Court is that, they may be given six months time to wipe off the entire liability.

2. It is to be noted that, the petitioners have approached this Court in an earlier occasion for regularisation of the loan accounts. After clearing the overdue amount, the loan accounts were regularised and thereafter, again they committed default.

3. The learned Standing Counsel for the Bank, therefore, opposes the prayer of the petitioner and submits that, the total liability of the petitioner is around ₹23 lakhs.

Taking note of the facts and circumstances, this writ petition is disposed of with the following directions :

1. The petitioners shall deposit an amount of ₹5 lakhs
(Rupees Five lakhs only) within one month from today.
2. If the petitioners comply with the above condition, the petitioners shall be given five more months time to discharge the entire liability.
3. To enable the petitioners to comply with the above conditions, all coercive steps against the petitioners

shall be deferred in tune with the directions.

4. If the petitioners commit default in honouring any of the conditions stipulated above, the Bank is free to proceed against the petitioners.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV