

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYASHTA, 1937**

**WP(C).No. 6353 of 2015 (T)**  
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**PETITIONER(S) :**  
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**G.UDAYAN, AGED 54 YEARS,  
S/O.LATE M.N.GOVINDAN, ETTUKANDATHIL HOUSE,  
S.L.PURAM P.O., ALAPPUZHA, PIN - 688 582.**

**BY ADVS.SMT.C.G.BINDU  
SMT.C.G.AJITHA**

**RESPONDENT(S) :**  
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- 1. UNION BANK OF INDIA, ALAPPUZHA BRANCH  
REPRESENTED BY ITS AUTHORIZED OFFICER AND  
CHIEF MANAGER, ALAPPUZHA, PIN- 688 001.**
- 2. JOMON JOHN,  
JESS HOUSE, PUTHENPARAMBIL, SEA VIEW WARD,  
ALAPPUZHA, PIN- 688 001.**
- 3. BIJIMON V.M.,  
KARTHIKA NIVAS, KR PURAM P.O., CHERTHALA,  
ALAPPUZHA, PIN- 688 354.**
- 4. SOLLY JOMON,  
JESS HOUSE, PUTHENPARAMBIL, SEA VIEW WARD,  
ALAPPUZHA, PIN- 688 001.**

**R1 BY ADV. SRI.A.S.P.KURUP, S.C**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

Msd.

**APPENDIX**

**PETITIONER(S)' EXHIBITS**

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- EXT.P1: TRUE COPY OF THE SALE DEED NO.3075/2007.
- EXT.P2: TRUE COPY OF THE RELEVANT PAGES OF RATION CARD.
- EXT.P3: TRUE COPY OF THE VOTERS IDENTITY CARD.
- EXT.P4: TRUE COPY OF THE ELECTRICITY BILL DATED 07/02/2015 HAVING CONSUMER NO.162 IN THE NAME OF FATHER GOVINDAN.
- EXT.P5: TRUE COPY OF THE BUILDING TAX PAID RECEIPT DATED 16/01/2012 STANDING IN THE NAME OF FATHER GOVINDAN.
- EXT.P6: TRUE COPY OF THE TELEPHONE BILL FOR THE TELEPHONE CONNECTION IN THE SAID HOUSE STANDING IN THE NAME OF FATHER GOVINDAN.
- EXT.P7: TRUE COPY OF THE RELEVANT PAGE OF VOTERS LIST OF PETITIONER'S LOCALITY.
- EXT.P8: TRUE COPY OF THE JUDGMENT IN O.S.NO.58/2010 OF THE SUB COURT, CHERTHALA DATED 05/01/2015.
- EXT.P9: TRUE COPY OF THE NOTICE DATED 23/10/2014 ISSUED TO THE RESPONDENTS 2 TO 4 HEREIN.
- EXT.P10: PHOTOGRAPHS (2 NUMBERS) OF THE RESIDENTIAL HOUSE.
- EXT.P11: TRUE COPY OF THE M.C.NO.258/2014 SUBMITTED BY THE 1ST RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA UNDER SECTION 14 OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT DATED 19.09.2014.

**RESPONDENT(S)' EXHIBITS**

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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.6353 of 2015

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Dated this the 1<sup>st</sup> day of June, 2015

**JUDGMENT**

The petitioner impugns SARFAESI proceedings.

2. Admittedly, respondents 2 to 4 are the borrowers.

The case of the petitioner's is that the property belongs to him and he is a unpaid seller and in possession of the property.

3. The case of the Bank is that the petitioner is not the owner of the property. The borrowers also would submit that they are the absolute owner and possession over the property and they have paid entire sale consideration.

4. The right of the unpaid seller has to be worked out through a civil suit or otherwise in accordance with law. This Court under Article 226 of the Constitution cannot decide such disputed issue.

5. In that view of the matter, with liberty to the petitioner to approach the civil court or Tribunal to redress his grievances, this writ petition is disposed of.

However, no coercive steps shall be taken against the property for a period of one month from today. The Bank is at liberty to proceed after one month in accordance with law unless it is interdicted by any competent court or Tribunal.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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