

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 11TH DAY OF JUNE 2015/21ST JYAISHTA, 1937

WP(C).No. 7900 of 2015 (J)

PETITIONER(S):

- 1. MR.GIREESHKUMAR T.R., AGED 39 YEARS,
S/O.RAMACHANDRAN, RESIDING AT THEKKANKOYIKKAL,
PURAKKAD P.O., ALAPPUZHA DISTRICT.**
- 2. SMT.MANIYAMMA, AGED 65 YEARS,
W/O.RAMACHANDRAN, RESIDING AT THEKKANKOYIKKAL,
PURAKKAD P.O., ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.G.HARIHARAN,
SRI.PRAVEEN.H.**

RESPONDENTS:

- 1. THE AUTHORIZED OFFICER,
(APPOINTED UNDER THE SECURITISATION AND
RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT 2002),
M/S. STATE BANK OF TRAVANCORE,
REGIONAL OFFICE, KALARKODE, ALAPPUZHA - 688 003.**
- 2. M/S. STATE BANK OF TRAVANCORE, REG.III (KLM),
REGIONAL OFFICE, KALARKODE, ALAPPUZHA - 688 003,
REPRESENTED BY ITS REGIONAL MANAGER,
(APPOINTED UNDER THE SECURITISATION AND
RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT 2002).**
- 3. MR.CHITHARANJAN,
S/O.RAMACHANDRAN, RESIDING AT THEKKANKOYIKKAL,
PURAKKAD P.O., ALAPPUZHA DISTRICT.**

**R1 & R2 BY ADV. SRI.R.S.KALKURA, SC.
R3 BY ADV. SRI.O.D.SIVADAS.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

**EXT.P1: TRUE COPY OF THE NOTICE DATED 29/12/2014 ISSUED BY THE
RESPONDENTS UNDER 8(6) OF THE SECURITY INTEREST
ENFORCEMENT RULES 2002.**

**EXT.P2: TRUE COPY OF THE PAPER PUBLICATION DATED 30/12/2014
PUBLISHED IN MATHRUBHOOMI DAILY ALAPPUZHA EDITION.**

RESPONDENT'S EXHIBITS:-

**EXT.R1A COPY OF THE JUDGMENT DATED 10/03/2015 IN
WP(C).NO.5328/2015.**

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.7900 of 2015

Dated this the 11th day of June, 2015

J U D G M E N T

The petitioners are the guarantors for a loan obtained by the 3rd respondent. The petitioners challenge 'SARFAESI' proceedings in this writ petition.

2. It is to be noted that, the 3rd respondent has already approached this Court in W.P.(C).No.5328/2015 and obtained Ext.R1 (a) judgment. In the above referred writ petition, this Court granted a conditional interim stay order to the 3rd respondent. However, he did not honour the conditions. Accordingly, the Bank initiated 'SARFAESI' proceedings.

3. Now the guarantors, petitioners in this writ petition, submit that, they are prepared to pay off the entire liability. This Court again by interim order dated 30.03.2015, directed the petitioners to deposit an amount of ₹4,00,000-/. It seems that, the above direction also not complied with. In such circumstances, I do not find any reason to exercise discretionary relief. Accordingly, this writ petition is dismissed.

However, the learned counsel for the petitioners submits that, the petitioners' entire property need not be put for sale for discharging the liability and that, they may be directed to sell a portion of the property mentioned in Ext.P1 notice, which would satisfy the entire liability. If the petitioners make a request before the Bank for the said purpose, the Bank shall consider the same. If

possible, the Bank shall entertain the earmarking of the petitioners' property for the purpose of sale.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV