

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

**PRESENT:**

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

**TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937**

**WP(C).No. 8400 of 2015 (Y)**  
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**PETITIONER :**  
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1. **K.N.MOHANAN**  
**S/O. LATE KANJIRATHINKAL NARAYANAN,**  
**AGRICULTURIST, AGED 53 YEARS**  
**KANJIRATHINKAL HOUSE, VETOMTHERI KARA**  
**CHINNAKANAL P.O., CHINNAKANAL VILLAGE**  
**UDUMBANCHOLA TALUK, PIN - 685 618.**

2. **K.N.RAJU,**  
**S/O. LATE KANJIRATHINKAL NARAYANAN,**  
**AGED 56 YEARS, AGRICULTURIST**  
**KANJIRATHINKAL HOUSE, ELLAKKAL P.O.,**  
**RAJAKKAD VILLAGE, UDUMBANCHOLA TALUK**  
**PIN - 683 618.**

**BY ADVS.SRI.M.P.RAMNATH**  
**SRI.P.RAJESH (KOTTAKKAL)**  
**SEI.M.VARGHESE VARGHESE**  
**SMT.S.SANDHYA**  
**SRI.BEPIN PAUL**  
**SRI.SHALU VARGHESE**  
**SMT.UMA R.KAMATH**

**RESPONDENT :**  
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**THE FEDERAL BANK LTD.,**  
**KUNCHITHANNY BRANCH, KUNCHITHANNI,**  
**IDUKKI DISTRICT, PIN- 686 565**  
**REPRESENTED BY ITS BRANCH HEAD/ MANAGER.**

**BY ADVS. SRI.A.ANTONY**  
**SMT.LEELAMMA ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION**  
**ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE**  
**FOLLOWING:**

**Mn**

**...2/-**

WP(C).No. 8400 of 2015 (Y)

**APPENDIX**

**PETITIONERS' EXHIBITS :**

- EXT. P1 - TRUE PHOTOCOPY OF THE NOTICE ISSUED DT. 04.6.14 UNDER S. 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 (HEREINAFTER REFFERED TO AS THE SARFESI ACT).
- EXT. P2 - TRUE PHOTOCOPY OF THE POSSESSION NOTICE DT. 20.11.14 ISSUED BY THE RESPONDENT IN RESPECT OF THE MORTGAGED PROPERTY OF THE 2ND PETITIONER.
- EXT. P3 - TRUE PHOTOCOPY OF THE RECEIPT FOR PAYMENT OF RS. 1 LAKH BY THE 1ST PETITIONER TO THE RESPONDENT ON 19.12.14.
- EXT. P4 - TRUE PHOTOCOPY OF THE LETTER DT. 20.12.14 GIVEN BY THE PETITIONERS TO THE RESPONDENT.
- EXT. P5 - TRUE PHOTOCOPY OF THE RECEIPT FOR PAYMENT OF RS. 50,000/- BY THE 1ST PETITIONER ON 14.1.14 TO THE RESPONDENT.
- EXT. P6 - TRUE PHOTOCOPY OF THE DETAILED REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT DT. 16.2.15.
- EXT. P7 - TRUE PHOTOCOPY OF THE REPLY DT. 23.02.15 ISSUED TO THE PETITIONERS BY THE RESPONDENT BANK.
- EXT. P8 - TRUE PHOTOCOPY OF THE CERTIFICATE 21.1.15 ISSUED BY THE AGRICULRUAL OFFICER, KRISHI BHAVAN, CHINNAKANAL, CERTIFYING THE WILD ELEPHANT ATTACK AND COMPLETE DISTROYING OF 1ST PETITIONER'S CROP.

**RESPONDENT(S)' EXHIBITS : NIL**

**//TRUE COPY//**

**P.A. TO JUDGE**

**Mn**

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.8400 of 2015

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Dated this the 26<sup>th</sup> day of May, 2015

**JUDGMENT**

The petitioners claim to be agriculturists, approached this Court challenging SARFAESI proceedings. According to them, the mortgaged properties are agricultural properties and not liable to be proceeded under the SARFAESI Act. The petitioners also seek relief restraining initiation of the recovery proceedings till September, 2015 to enable them to pay off the entire liability. The petitioners submit that on account of destruction of the Cardamom plantation, they are unable to pay the amount and expect some yields by September, 2015 and they will clear the entire liability.

2. The learned counsel for the Bank would submit that the petitioners if at all are aggrieved by the SARFAESI proceedings, their remedy is to approach the Debts Recovery

Tribunal by an appeal. It is further submitted that the properties are residential properties and they are entitled to proceed in accordance with law.

3. If the petitioners have any grievance against SARFAESI proceedings, they are at liberty to approach the Debt Recovery Tribunal. Therefore, the writ petition is disposed of.

However, the petitioners are given two months time to pay off the entire liability and till expiry of the period as above, no coercive steps shall be taken against the petitioners.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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