

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

WP(C).No. 9777 of 2015 (V)

PETITIONER:

**LAKSHMI, W/O.ARUMUGAN, AGED 50 YEARS,
13/356, CHANDNAPURAM, ACC COLONY,
PUTHUSSERY, VALAYAR P.O,
PALAKKAD DISTRICT - 678 624.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SRI.M.F.MOHAMMOD SIYAD
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENT(S):

- 1. THE ORIENTAL BANK OF COMMERCE,
REPRESENTED BY ITS MANAGER,
THRISSUR BRANCH, NARAYANA COMPLEX,
VELIYANNOOR ROAD, THRISSUR - 680 021.**
- 2. THE CHIEF MANAGER AND AUTHORIZED OFFICER
UNDER THE SARFAESI ACT,
THE ORIENTAL BANK OF COMMERCE,
THRISSUR BRANCH, NARAYANA COMPLEX,
VELIYANNOOR ROAD, THRISSUR 680 021**
- 3. THE STATION HOUSE OFFICE,
PALAKKAD TOWN SOUTH POLICE STATION,
PALAKKAD - 678 014.**
- 4. K.C OUSEPH, S/O.KOCHAPPAN, PROPRIETOR,
C.K GOLD WORKS, CHOONDAL HOUSE,
VALAKKAVU, MULAYAM POST, THRISSUR - 686 752.**

**R1 & R2 BY ADV. SRI.SAJI P.JOSEPH, SC
R3 BY GOVERNMENT PLEADER SRI.R.RANJITH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1 ; TRUE COPY OF COMMUNITY CERTIFICATE ISSUED BY THE
TAHSILDAR DATED 15-12-2005.
- EXHIBIT P2 : TRUE COPY OF SETTLEMENT DEED NO 1051/1995 OF SRO PALAKKAD
DATED 14-02-1995.
- EXHIBIT P3 : TRUE COPY OF FIRST INFORMATION REPORT NO 1508/2014 OF
PALAKKAD TOWN SOUTH POLICE STATION DATED 24-10-2014.
- EXHIBIT P4 : TRUE COPY OF BILL ISSUED BY THE KERALA STATE ELECTRICITY
BOARD TO THE PETITIONER DATED 7-1-2015.
- EXHIBIT P5 : TRUE COPY OF BILL ISSUED BY THE KERALA STATE ELECTRICTY
BOARD TO THE PETITIONER DATED 5-3-2015.
- EXHIBIT P6 : TRUE COPY OF RECEIPT ISSUED TO THE PETITIONER BY THE
KERALA STATE ELECTRICTY BOARD DATED 14-1-2015.
- EXHIBIT P7 : TRUE COPY OF THE NOTICE DATED 23-02-2015 SERVED ON THE
PETITIONER BY ADVOCATE COMMISSIONER IN CMP NO 400/15.
- EXHIBIT P8 : TRUE COPY OF PETITION FILED AS CMP NO 400/15 FILED IN THE CIEF
JUDICIAL MAGISTRATE'S COURT,PALAKKAD DATED JANUARY 2015.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C) No.9777 of 2015

Dated this the 2nd day of June, 2015

JUDGMENT

The petitioner impugns SARFAESI proceedings. According to the petitioner, borrowers have fraudulently created document and furnished a security to obtain a loan from the Bank. The petitioner submits that she is in possession of the property.

2. Learned Standing Counsel for the Bank opposes the prayer of the petitioner. It is submitted that the petitioner has no *locus standi* and the loan was granted as against the validly executed documents.

3. Essentially, this is an issue, which encompass a disputed question of fact and cannot be decided by this Court, invoking power under Article 226 of the Constitution. Therefore, remedy of the petitioner is to approach the competent civil court or resort to any measures available under law.

With that liberty, the writ petition is disposed of. However, to enable the petitioner to work out any alternate remedy, coercive steps against the property shall be deferred for a period of three weeks.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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