

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

**PRESENT:**

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

**FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYASHTA, 1937**

**WP(C).No. 10101 of 2015 (K)**  
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**PETITIONERS :**  
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- 1. M.V.NAZER, AGED 49 YEARS,  
S/O. BEERAN, MANJILERI HOUSE, MUNDERI,  
KALPETTA POST, KALPETTA VILLAGE, VYTHIRI TALUK,  
WAYANAD DISTRICT.**
- 2. SOUJATH C.V., AGED 40 YEARS,  
W/O. M.V.NAZER, MANJILERI HOUSE, MUNDERI,  
KALPETTA POST, KALPETTA VILAGE, VYTHIRI TALUK,  
WAYANAD DISTRICT.**

**BY ADV. SMT.CELINE JOSEPH**

**RESPONDENTS :**  
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- 1. THE MANAGER  
CATHOLIC SYRIAN BANK LTD, KALPETTA BRANCH,  
WAYANAD DISTRICT - 673 645.**
- 2. THE CATHOLIC SYRIAN BANK LTD.,  
ZONAL OFFICE, KOZHIKODE,  
REPRESENTED BY ITS AUTHORISED OFFICER - 673 645.**

**R1 & R2 BY ADV. SRI.R.S.KALKURA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1: TRUE COPY OF THE PLAINT IN OS NO. 303/2014 BEFORE THE MUNSIF COURT, KALPETTA.
- P2: TRUE COPY OF THE PETITION FILED BEFORE THE CHIEF JUDICIAL MAGISTRATE, KALPETTA IN CMP NO. 653/15.
- P3: TRUE COPY OF THE NOTICE FOR EVICTION DT. 20.2.15 ISSUED BY THE ADVOCATE COMMISSIONER IN CMP NO. 653/2015.
- P4: TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 20(1)(B) OF LEGAL SERVICE AUTHORITIES ACT, 1987 TO REFER THE CMP NO. 653/2015 FOR SETTLEMENT IN THE LOK ADALATH.

**RESPONDENT(S)' EXHIBITS** :

- EXT.R1(A): COPY OF THE APPLICATION DT 12/4/2010 SUBMITTED BY THE FIRST PETITIONER FOR THE GRANT OF HOUSING LOAN.
- EXT.R1(B): COPY OF THE INCOME-TAX ACKNOWLEDGMENT FILED BY THE FIRST PETITIONER SHOWING THE BUSINESS CONDUCTED BY HIM FOR THE FINANCIAL YEAR 2009-10.
- EXT.R1(C): COPY OF THE TAX RECEIPT ISSUED BY THE MUNICIPAL CORPORATION, KALPETTA DATED 18/02/2009 TOWARDS THE LICENCE FREE OF THE TEXTILE SHOP OF THE PETITIONER.

**//TRUE COPY//**

**P.A. TO JUDGE**

**bp**

**A.MUHAMED MUSTAQUE, J.**

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W.P.(C) No.10101 of 2015

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Dated this the 29<sup>th</sup> day of May, 2015

**JUDGMENT**

Petitioners impugn SARFAESI proceedings. The petitioners have availed a housing loan of Rs.4 lakhs. Now, the liability is around more than Rs.5,70,000/- and the arrears is around more than Rs.2,27,000/-. The petitioners submit that they are prepared to pay off the entire liability in monthly instalments.

2. Learned counsel for the Bank would submit that the Bank has already instituted a suit and therefore, the petitioners' request cannot be accepted.

3. Considering the fact that the petitioners are residing in the secured asset and a lenient view should be taken.

It is submitted by the learned counsel for the petitioners that the suit is not yet decreed and the matter is pending. Therefore, the Bank can consider the petitioners' request for regularisation. I am of the view, the petitioners should be given breathing time to pay off the overdues, if the suit is not decreed. If the petitioners pay the entire overdue amounts in three instalments starting from June, 2015 along with regular EMI, the Bank shall consider the request for regularisation. If there is no other impediment for the Bank, necessarily, the Bank shall accept the petitioners' request for regularisation. If the petitioners commit default in paying any of the overdues and also regular EMI, the Bank is at liberty to proceed against the petitioners from the stage where it is stopped.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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