

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

WP(C).No. 11523 of 2015 (M)

PETITIONER(S) :

- 1. SHAKUNTHALA, AGED 46 YEARS,
W/O.SHAMBU, RESIDING AT THANIKKARA HOUSE, KODUMUNDA P.O.,
PATTAMBI (VIA), PALAKKAD DISTRICT- 679 303.**
- 2. O.SHAMBU, AGED 47 YEARS,
S/O.ACHUTHANANDAN, RESIDING AT THANIKKARA HOUSE,
KODUMUNDA P.O., PATTAMBI (VIA), PALAKKAD DISTRICT- 679 303.**

**BY SRI.T.SETHUMADHAVAN (SENIOR ADVOCATE)
ADVS. SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON**

RESPONDENT(S) :

- 1. FEDERAL BANK,
PATTAMBI BRANCH, MELE PATTAMBI JUNCTION
PALAKKAD DISTRICT, REPRESENTED BY ITS MANAGER.**
- 2. CHIEF MANAGER & AUTHORIZED OFFICER,
SAMC, ZONAL OFFICE, KOZHIKODE,
FEDERAL TOWERS, MAVOOR ROAD, ARAYIDATHUPALAM,
KOZHIKODE- 673 016.**

**BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)
BY ADV. SMT.SALI. P. MATHEW (MUNNAR)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

WP(C).No. 11523 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF
THE SARFAESI ACT, DATED 13.08.2014.**

**EXHIBIT P2: TRUE COPY OF THE POSSESSION NOTICE DATED 06.03.2015
ISSUED BY THE BANK.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.11523 of 2015

Dated this the 25th day of May, 2015

JUDGMENT

Petitioners approached this Court challenging possession notice under the SARFAESI Act. The petitioners submit that second petitioner met with an accident and he was bedridden for more than one year. It is also submitted that 2nd petitioner's kidney has been partly damaged and he is undergoing treatment for the same. The petitioners' only request before this Court is for regularization of the loan account by giving an instalment facility to clear the over dues.

2. Learned Standing Counsel for the Bank opposes the prayer of the petitioners and submits that an amount of Rs.67,000/- is overdue as on 19.5.2015. It is further submitted that they may be permitted to proceed with the SARFAESI proceedings.

Considering the medical condition of the second petitioner, I am of the view, a lenient approach shall be taken in this matter. Therefore, the overdue amount of Rs.67,000/- shall be permitted to pay in ten equal monthly instalments starting from 15.6.2015 along with regular EMI. If the petitioners pay the entire overdue amount along with regular EMI, the petitioners loan account shall be regularised. If the petitioners commit default of two consecutive instalments of overdue arrears and EMI, the respondents are at liberty to proceed against the property from the stage where it is stopped.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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