

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 4TH DAY OF JUNE 2015/14TH JYAISHTA, 1937

WP(C).No. 14342 of 2015 (P)

PETITIONERS :

- 1. VALSAMMA SEBASTIAN, AGED 49 YEARS
W/O.XAVIER MATHEW, RESIDING AT POOVATHINKAL HOUSE,
NAJARAKAVALA, MARYGIRI P.O., IDUKKI DISTRICT.**
- 2. XAVIER MATHEW
S/O.MATHEW, RESIDING AT POOVATHINKAL HOUSE,
NAJARAKAVALA, MARYGIRI P.O., IDUKKI DISTRICT.**

BY ADV. SRI.N.M.VARGHESE

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE STATE BANK OF INDIA,
REPRESENTED BY THE CHIEF MANAGER (RURAL),
REGIONAL OFFICE, KOTTAYAM DISTRICT.**
- 3. THE MANAGER
STATE BANK OF INDIA, KATTAPPANA, ADB BRANCH
KATTAPPANA, IDUKKI DISTRICT.**
- 4. AKHIL S. DAS, ADVOCATE COMMISSIONER
CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA,
IDUKKI DISTRICT.**

**R1 BY GOVERNMENT PLEADER SMT.M.T. SHEEBA
R BY SRI.R.S.KALKURA, SC, SBI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE NOTICE DATED 13/5/2011 ISSUED BY THE BANK.
- P2: COPY OF THE PETITION IN MC NO.57/2012 ON THE FILE OF THE LEARNED CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA.
- P3: COPY OF THE ORDER DATED 12/3/2012 IN MC NO.57/2012 ON THE FILE OF THE LEARNED CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA.
- P4: PHOTOCOPY OF RECEIPTS ISSUED BY THE RESPONDENT BANK.
- P5: PHOTOCOPY OF NOTICE DATED 23/4/2015 ISSUED BY THE 4TH RESPONDENT.
- P6: PHOTOCOPY OF THE ORDER DATED 30/3/2015 PASSED BY THE LEARNED CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA.
- P7: PHOTOCOPY OF RECEIPT DATED 11/5/2015 ISSUED BY THE 3RD RESPONDENT BANK.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.14342 of 2015

Dated this the 4th day of June, 2015

JUDGMENT

Petitioners approached this Court challenging SARFAESI proceedings. The petitioners availed housing loan and defaulted in repaying the loan amount. It is admitted that the petitioners have approached the Debts Recovery Tribunal by filing S.A.No.459/2012 and the interim order granted by the Debts Recovery Tribunal has been vacated on account of non-compliance of the conditions. The petitioners undertake before this Court that they are prepared to withdraw S.A.No.459/2012 on the file of the Debts Recovery Tribunal, if this Court grants an instalment facility.

2. Learned counsel for the Bank would submit that the petitioners' overdue amount is Rs.3,81,086/- as on 30.5.2015 and the petitioners are liable to pay the entire amount.

Considering the facts and circumstances, this writ petition is disposed of with the following directions:

1. The petitioners undertaking that, 'S.A.No.459/2012' will be withdrawn is recorded.
2. The Registry shall intimate the withdrawal of S.A.No.459/2012 to the Debts Recovery Tribunal.
3. The petitioners also shall file a memo before the Debts Recovery Tribunal withdrawing the S.A.No.459/2012.
4. The petitioners shall deposit Rs.50,000/- on or before 15.7.2015.
5. Thereafter, the petitioners shall clear the overdue amount along with regular EMI in eight instalments starting from 15.8.2015 onwards.
6. If the petitioners clear the entire overdue amount within the time indicated above, the account shall be regularised.
7. If the petitioners fail to pay any of the instalments either the overdue amount or regular EMI, based on the directions of this Court, the Bank is free to proceed against the petitioners in accordance with law.
8. The Bank shall provide statement of accounts to the petitioners within a period of two weeks.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE