

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

WP(C).No.14578 of 2014 (V)

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PETITIONER :

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AJITH KUMAR,  
AGED 45 YEARS, S/O. PACHU PILLAI,  
PACHAVANAL PUTHEN VEEDU, POOZHICKADU, KUDASSANADU,  
PATHANAMTHITTA DISTRICT – 689 512,

FROM LEKHA BHAVAN,  
PADA SOUTH, BEHIND K.S.R.T.C BUS STAND, KARUNAGAPALLY,  
KARUNAGAPALLY TALUK, KOLLAM DISTRICT.

BY ADVS.SMT.MINI GANGADHARAN  
SRI.N.C.SAJUNAM

RESPONDENTS :

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1. THE AUTHORISED OFFICER,  
INDIAN BANK, KARUNAGAPALLY, KARUNAGAPALLY TALUK,  
KOLLAM– 690 521.

2. T. SREELEKHA,  
D/O. THANKAMANI PILLAI,  
NO. 27, BEHIND LOGOS CHURCH,  
BABUSAPALAYA, BANGALORE – 43,

FROM LEKHA BHAVAN,  
PADA SOUTH, BEHIND K.S.R.T.C BUS STAND, KARUNAGAPALLY,  
KARUNAGAPALLY TALUK, KOLLAM DISTRICT.

R1 BY SRI.S.EASWARAN–SC  
R2 BY ADV. SRI.KISHOR B.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-10-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 14578 of 2014 (V)

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APPENDIX

PETITIONER'S EXHIBITS :-

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EXHIBIT-P1-TRUE COPY OF THE STATEMENT OF ACCOUNTS SHOWING THE  
REMITTANCE OF RS.1,00,000/- BY THE PETITIONER TO THE 1ST RESPONDENT BANK.  
EXHIBIT-P2-TRUE COPY OF THE NOTICE SENT BY THE 1ST RESPONDENT BANK TO THE  
PETITIONER REQUIRING HIM TO REMIT THE ARREARS AMOUNTING TO RS.35,000/- BY  
10/09/2013.  
EXHIBIT-P3-TRUE COPY OF THE POSSESSION NOTICE DATED 05/02/2014.  
EXHIBIT-P4-TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER REQUESTING  
INSTALMENT PAYMENTS.  
EXHIBIT-P5-TRUE COPY OF THE STATEMENT OF ACCOUNTS ISSUED BY THE 1ST  
RESPONDENT.

RESPONDENTS' EXHIBITS :- NIL.

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True copy

P.A to Judge

**ANIL K.NARENDRA, J.**

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**W.P.(C)No.14578 of 2014**  
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**Dated this the 6<sup>th</sup> day of October, 2015**

**JUDGMENT**

The petitioner has filed this writ petition seeking a writ of certiorari to quash Ext.P3 possession notice issued by the 1<sup>st</sup> respondent, who is the authorised officer of the Indian Bank and also seeking a writ of mandamus commanding the 1<sup>st</sup> respondent to permit him to pay the liability outstanding in 20 equal monthly instalments and to direct the 1<sup>st</sup> respondent to regularise the loan account, as represented in Ext.P4 representation.

2. On 23.7.2014 this Court passed the following order:-

“There shall be an interim stay of dispossession, on the petitioner clearing off the arrears in 4 monthly instalments starting from 23.08.2014 and followed up on the 23<sup>rd</sup> of the succeeding months. It is made clear that, the equated monthly instalments also have to be paid by the petitioner herein on the due dates. It is made clear that, considering the controversies between the co-owners; husband and wife being the petitioner and the second respondent, payment now directed to be paid will definitely be subject to any adjudication between the parties in the appropriate forum. Await appearance of the 2<sup>nd</sup> respondent.”

3. Though the 2<sup>nd</sup> respondent entered appearance she has not chosen to file any counter affidavit.

4. In view of the interim order granted on 23.7.2014 by which the petitioner was permitted to clear the arrears in 4 monthly instalments commencing from 23.8.2014 and to clear the regular monthly instalments on the respective due dates no further orders are necessary in this Writ Petition.

If the petitioner had already cleared the arrears in 4 monthly instalments as directed above and continues to pay the regular monthly instalments without any default, the 1<sup>st</sup> respondent shall keep in abeyance all further proceedings pursuant to Ext.P3. On the other hand, if the petitioner has committed default in payment of any one of the instalments, it would be open to the 1<sup>st</sup> respondent to proceed further with Ext.P3 notice.

The writ petition is disposed of as above.

Sd/-

**ANIL K.NARENDRAN, JUDGE**

skj