

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 14910 of 2015 (K)

PETITIONERS :

- 1. T.K.SREEMATHY AMMA, AGED 51 YEARS,
W/O.LATE VASUDEVAN NAIR
" PRAKSH NIVAS", PATHIYIL HOUSE, KARIMBA (POST)
PALAKKAD DISTRICT, PIN-678 397.**
- 2. T.K.PRAKASAN,
S/O..LATE VASUDEVAN NAIR, " PRAKSH NIVAS"
PATHIYIL HOUSE, KARIMBA (POST), PALAKKAD DISTRICT
PIN-678 397.**

BY ADV. SRI.P.K.MOHANAN(PALAKKAD)

RESPONDENTS :

- 1. THE AUTHORISED OFFICER,
THE FEDERAL BANK LTD., REGIONAL OFFICE,
SAI KRISHNA RESIDENCY, KUNNATHURMEDU,
PALAKKAD-678 013.**
- 2. THE MANAGER,
THE FEDERAL BANK LTD., KALLADIKODE BRANCH
(POST) KALLADIKKODE, MANNARKKAD TALUK
PALAKKAD DISTRICT, PIN-678 306.**

**R1 BY ADV. SRI.A.ANTONY
BY ADV. SMT.LEELAMMA ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: A TRUE COPY OF THE LAWYER NOTICE DATED 18/7/2013 ISSUED BY THE ADVOCATE P.C. SEBATIAN AS PER THE INSTRUCTION OF THE 2ND RESPONDENT BRANCH MANAGER OF FEDERAL BANK LTD, KALLADIKKODE BRANCH.
- P2: A TRUE COPY OF THE ALLEGED POSSESSION NOTICE DATED 28/11/2014 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.
- P3: A TRUE COPY OF THE LAWYER NOTICE DATED 15/12/2014 ISSUED TO THE RESPONDENTS.
- P4: A TRUE COPY OF THE REPLY NOTICE DATED 23/12/2014 ISSUED BY ADV. A. PRADEEPKUMAR AS PER THE INSTRUCTION OF THE 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.14910 of 2015

Dated this the 20th day of July, 2015

J U D G M E N T

The petitioner availed a cash credit facility from the respondent Bank. On account of default in repaying the amount, the Bank initiated 'SARFAESI' proceedings. The petitioner impugns the same in this writ petition.

2. The petitioner's case is that, the secured asset is an agricultural land and the same cannot be proceeded under the 'SARFAESI' Act.

3. The learned standing counsel for the Bank submits that, the secured asset is substantially covered by residential building and it cannot be treated as an agricultural land. It is also submitted that, the total liability of the petitioner is around ₹6,75,000/-.

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

1. The petitioner shall remit an amount of ₹25,000/- (Rupees Twenty five thousand only) in every month for a period of five months starting from 10.08.2015.
2. The petitioner shall, thereafter in the succeeding month, discharge the entire liability with the Bank in lumpsum.
3. The issue regarding the nature of land is left open.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.