IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No. 14954 of 2015 (T)

PETITIONER(S):

KAVITHA PRINCE,
W/O.SUBRAMANNIAN PRINCE, THULASI BHAVAN, TC 44/659,
VALLAKKADAVU P.O., VALIYATURA, THIRUVANANTHAPURAM,
REPRESENTED BY HER POA HOLDER,
MRS. LAKSHMI SANTHA KUMARI, W/O.LATE GOPALAN,
THULASI DAS, R/O.THULASI BHAVAN, TC 44/659,
VALLAKKADAVU P.O., VALIYATURA, THIRUVANANTHAPURAM.

BY ADV. SMT.E.V.MOLY.

RESPONDENT(S):

BANK OF BARODA,
BANERJI ROAD, ERNAKULAM NORTH-682 018
REPRESENTED BY ITS AUTHORIZED OFFICER.

BY ADVS. SRI.DEVAN RAMACHANDRAN,
SRI.K.M.ANEESH,
SRI.ADARSH KUMAR,
SRI.BIJU VARGHESE ABRAHAM,
SRI.DILEEP CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 14954 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

P1 : THE TRUE COPY OF INTIMATION RECEIVED FROM THE BANK BY THE PETITIONER.

P2 : THE TRUE COPY OF THE NOTICE DATED 13-02-2014 UNDER SECTION 13(2) OF THE SARFAESI ACT.

P3 : THE TRUE COPY OF THE NOTICE ISSUED BY ADVOCATE COMMISSIONER DATED 10-04-2015.

P4. THE TRUE COPY OF THE EMAIL COMMUNICATION FORWARDED TO THE RESPONDENT BANK.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.14954 of 2015

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Dated this the 30th day of June, 2015

<u>J U D G M E N T</u>

The petitioner availed a housing loan from the respondent Bank. Due to default in repaying the loan amount, the Bank initiated 'SARFAESI' proceedings against the petitioner. The same is under challenge in this writ petition.

2. It appears that the Bank have instituted O.A before the Debt Recovery Tribunal and also proceeded under 'SARFAESI' proceedings.

3. The overdue amount is around ₹7 lakhs and the total liability is around ₹36 lakhs.

4. Considering the fact that, the secured asset is a residential building, this writ petition is disposed of with the following directions :

1. The petitioner shall discharge the entire overdue amount along with regular EMIs in four equal monthly installments starting from the month of July 2015 onwards.
2. The petitioner shall execute Acknowledgement of Debt with the Bank within two weeks through the power of attorney holder and guarantor shall also execute the same.

3. The petitioner shall also produce the original power of attorney before the Bank.
4. If all the above conditions are satisfied by the petitioner, the Bank shall regularise the account.
5. If the petitioner fails to comply with any of the conditions stipulated above, the Bank is free to proceed against the petitioner under the SARFAESI Act.
6. The Bank shall also provide petitioner's account statement to the power of attorney holder of the petitioner.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV