

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WP(C).No. 15223 of 2015 (C)

PETITIONER:

**B. AJITHA, AGED 42 YEARS,
D/O. BHASKARAN, JANARDHANA,
ASRAMAM P.O, KOLLAM DISTRICT.**

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT(S):

- 1. KOLLAM DISTRICT CO-OPERATIVE BANK LTD,
REPRESENTED BY ITS SECRETARY, CHINNAKKADA
KOLLAM - 691 001.**
- 2. THE MANAGER,
DISTRICT CO-OPERATIVE BANK, KILIKOLLOOR BRANCH
KOLLAM - 691 001.**
- 3. SPECIAL SALE OFFICER,
DISTRICT CO-OPERATIVE BANK,
KOLLAM - 691 001.**

BY SRI. T.R. HARIKUMAR, SC, KOLLAM DISTRICT COOPERATIVE BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 15223 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1: TRUE COPY OF THE RELEVANT PAGES OF THE PASS BOOK ISSUED BY THE
2ND RESPONDENT WITH RESPECT TO LOAN NO. 530/2001-02.

EXT. P2: TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 3RD RESPONDENT
DATED 05.05.2015.

EXT. P3: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE
PRINCIPAL OF THE S.N.COLLEGE, VARKALA.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

ANIL K. NARENDRA, J.

W.P.(C) No.15223 of 2015

Dated this the 1st day of June, 2015

JUDGMENT

The husband of the petitioner, who died on 11.09.2011, availed a term loan of Rupees One lakh from the 1st respondent Bank, as loan No.530/2001-02. When there was default on the part of the borrower in repaying the loan amount, recovery proceedings were initiated against the property owned by the petitioner's husband as well as against the sureties. Now the petitioner is before this Court in this writ petition seeking a writ of mandamus commanding respondents 1 to 3 to permit her to pay the dues under Exts.P2 and P3 demand notices, in monthly instalments.

2. By order dated 25.05.2015, this Court directed the learned Standing Counsel for the Bank to get instructions.

3. Today, when the case was taken up for further consideration, the learned Standing Counsel for the Bank submitted that going by Ext.P3 demand notice issued to one of the sureties, the total amount outstanding as on 09.03.2015

comes to Rs.2,71,671/-. Learned Standing Counsel further submits that the Bank has no objection in permitting the petitioner to remit the total outstanding in monthly instalments; but in case of any default, the Bank should be permitted to proceed against the sureties as well as against the property offered by the petitioner's husband as security.

4. I heard the arguments of the learned counsel for the petitioner and also the learned Standing Counsel for the respondents.

5. The fact that the petitioner's husband who availed the term loan died on 11.09.2011 is not in dispute. Going by the averments in the writ petition, after the death of her husband, the petitioner is in acute financial crisis and it is in such circumstances, she approached this Court in this writ petitioner seeking instalment facility for re-payment of the loan amount. As evident from Ext.P3, the respondent Bank has already initiated recovery proceedings against one of the sureties.

6. Considering the fact that the petitioner is prepared to pay the loan amount outstanding in monthly instalments, this writ petition is disposed of with the following directions:

If the petitioner pays the total amount outstanding to the

respondent Bank in respect of the loan availed by her late husband in ten equal monthly instalments commencing from 01.07.2015, all recovery proceedings pursuant to Exts.P2 and P3 shall be kept in abeyance and the petitioner shall be permitted to pay the total amount outstanding in such instalments. On the other hand, if the petitioner commits any default in remitting any of the monthly instalments referred to above, it would be open to the respondent Bank to take recovery steps for recovering the entire balance due and it would be then open to the respondent Bank to proceed against the sureties as well as the property offered by the petitioner's late husband as security.

JV

SD/-
ANIL K. NARENDRA,
JUDGE