

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937**

**WP(C).No. 16083 of 2015 (I)**  
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**PETITIONER :**  
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**VINOY N.J., AGED 45 YEARS, S/O.JACOB,  
NEDUMPURATH HOUSE, VARAPETTY, KOTHAMANGALAM,  
ERNAKULAM DISTRICT.**

**BY ADV. SRI.ALIAS M.CHERIAN**

**RESPONDENTS :**  
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- 1. THE AUTHORIZED OFFICER, HDFC BANK,  
HDFC HOUSE, POST BOX NO.1667 RAVIPURAM JUNCTION,  
M.G.ROAD, ERNAKULAM - 682 015.**
- 2. HDFC BANK, HDFC HOUSE,  
MOOVATTUPUZHA BRANCH, ERNAKULAM DISTRICT  
PIN - 686 661 REPRESENTED BY ITS BRANCH MANAGER.**

**R1 & R2 BY SRI.K.K.CHANDRAN PILLAI SENIOR ADVOCATE  
BY ADV. SMT.S.AMBILY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

**WP(C).No. 16083 of 2015 (I)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXT.P-1: TRUE COPY OF NOTICE DATED 10.3.2015.**

**EXT.P-2: TRUE COPY OF NOTICE DATED 21.4.2015.**

**RESPONDENT(S)' EXHIBITS : NIL.**

**//TRUE COPY//**

**P.A. TO JUDGE**

**bp**

**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C)No.16083 of 2015**

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**Dated this the 5<sup>th</sup> day of June, 2015**

**JUDGMENT**

The petitioner availed housing loan from the second respondent and defaulted in repayment of the loan amount. The petitioner impugns SARFAESI proceedings. It has come out that in the secured asset; there is a house wherein the petitioner's mother is residing.

2. Learned senior counsel for the Bank submits that the petitioner's mother has obtained a protection order from the Revenue Divisional Officer against eviction from the house. Learned senior counsel for the Bank also submits that the Bank will only proceed against the land excluding the house for recovering the loan amount.

3. Learned counsel for the petitioner submits that the petitioner is prepared to pay the entire liability within eight months. The only prayer made before this Court is for seeking a time to pay off the entire liability.

4. The Bank opposes the prayer of the petitioner and submits that the petitioner did not pay the amount with intention to see that the mother is evicted from the residential building and it is only after verifying the fact that the mother is residing alone there, the Bank based on a humanitarian reason has decided to proceed only against the land excluding the house.

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

1. The petitioner shall pay Rs.2 lakhs in two instalments.
2. The first instalment shall be paid on or before 30/6/2015 and the second instalment shall be paid on or before 30/7/2015.
3. If the petitioner pays the above instalments as above, the petitioner shall be given four months further time to clear the entire liability.
4. If the petitioner defaults in paying any of the instalments or fails to discharge the entire liability within the time given, the Bank is at liberty to proceed against the petitioner from the stage where it is stopped.

5. It is made clear that the Bank while proceeding for recovery, shall exclude the residential building in the secured asset and shall proceed only against the land alone to satisfy the liability.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**

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