

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

WP(C).No. 16161 of 2015 (U)

PETITIONER(S) :

- 1. P.PMANUAL, AGED 43 YEARS,
SON OF MR.POULOSE, PUTHENPURACKAL HOUSE,
SOUTH VELLARAPILLY (PO), KALADY, ERNAKULAM-683 580.**
- 2. GIJI MANUAL, AGED 37 YEARS,
WIFE OF MR.P.P.MANUEL, PUTHENPURACKAL HOUSE,
SOUTH VELLARAPILLY (PO), KALADY, ERNAKULAM-683 580**

**BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SMT.SAVITHA GANAPATHIYATAN
SRI.M.M.SHAJAHAN
SRI.M.RETHEESHKUMAR**

RESPONDENT(S) :

- 1. UNION OF INDIA,
MINISTRY OF FINANCE DEPARTMENT OF FINANCIAL SERVICES,
3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD MARG,
NEW DELHI, PIN-110 001,
REPRESENTED BY IS FINANCE SECRETARY.**
- 2. FEDERAL BANK LIMITED,
REGISTERED OFFICE, ALUVA (PO), ERNAKULAM DISTRICT,
PIN CODE-683 101, REPRESENTED BY ITS MANAGING DIRECTOR.**
- 3. BRANCH MANAGER,
FEDERAL BANK LIMITED, KANJOOR BRANCH,
KALADY ALUVA ROAD, KANJOOR (PO),
ERNAKULAM, PIN CODE-683 575.**
- 4. BRANCH MANAGER,
FEDERAL BANK LIMITED, THOTTAKKATTUKARA BRANCH,
PARACKAL TOWRS, U.C.COLLEGE (PO), ALUVA,
ERNAKULAM, PIN CODE-683 102.**
- 5. AUTHORISED OFFICER,
FEDERAL BANK LIMITED, THOTTAKKATTUKARA BRANCH,
PARACKAL TOWRS, U.C.COLLEGE (PO), ALUVA,
ERNAKULAM, PIN CODE-683 102.**

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6. NATIONAL BANK FOR AGRICULTURAL & RURAL DEVELOPMENT (NABARD), DEPARTMENT OF REFINANCE, 3RD FLOOR, 'A' WING C-24, 'G' BLOCK BANDRA KURLA COMPLEX, BANDRA (EAST), MUMBAI, PIN CODE-400 051, REPRESENTED BY ITS CHIEF GENERAL MANAGER.
 7. RESERVE BANK OF INDIA, DEPARTMENT OF BANKING SUPERVISION, 21ST FLOOR, CENTRAL OFFICE BUILDING, SHAHID BHAGAT SINGH MARG, FORT, MUMBAI, MAHARASHTRA, PIN CODE-400 001, REPRESENTED BY ITS EXECUTIVE DIRECTOR.
 8. CENTRAL REGISTRAR, CENTRAL REGISTRY FOR SECURITISATION & SECURITY INTEREST OF INDIA, 5TH FLOOR, MTNL TELEPHONE EXCHANGE BUILDING 8-BHIKAJI CAMA PLACE, NEW DELHI, PIN CODE-110 066.
 9. SOUMYA CHANDRAN, ADVOCATE COMMISSIONER, MEMBER, ERNAKULAM DISTRICT BAR ASSOCIATION, DISTRICT COURT COMPLEX, ERNAKULAM, PIN-682 011.
- R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADV. SRI.S.BIJU, CGC
- R2 TO R5 BY ADVS. SRI.A.ANTONY
SMT.LEELAMMA ANTONY
SRI.K.P.KURIAKOSE
- R9 BY ADVS. SRI.B.RAMACHANDRAN
SMT.NIVYA VALSAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 :** COPY OF THE NOTICE SECTION 13(2) OF THE ACT.
- P2 :** COPY OF THE NOTICE UNDER SECTION 13(2) OF THE ACT.
- P3 :** COPY OF THE LOAN SANCTION ORDER OF RS.350 LAKHS.
- P4 :** COPY OF THE LOAN SANCTION ORDER OF RS.40 LAKHS.
- P5 :** COPY OF THE LOAN SANCTION ORDER OF RS.70 LAKHS.
- P6 :** COPY OF THE POSSESSION NOTICE PUBLISHED IN DEEPIKA DAILY.
- P7(A):** COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER IN SURVEY NO.241/1.
- P7(B):** COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER IN SURVEY NO.250/13-2.
- P7(C):** COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER IN SURVEY NO.251/1, 251/1-2.
- P7(D):** COPY OF THE BILL FOR AGRICULTURAL CONNECTION.
- P7(E):** COPY OF THE BILL FOR AGRICULTURAL CONNECTION.
- P7(F):** COPY OF THE BILL FOR AGRICULTURAL CONNECTION.
- P8 :** COPY OF THE NOTICE ISSUED BY ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.16161 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

The dispute in this writ petition pertaining to the initiation of 'SARFAESI' proceedings in respect of the property which, according to the petitioners, is agricultural land.

2. According to the learned Standing Counsel for the Bank they are only proceeding against the residential building in the adjacent land. It is also submitted that, they are not proceeding against the agricultural land.

3. However, the learned counsel for the petitioners submits that, the residential building is in fact in the agricultural land and predominant activity in that land is agriculture.

4. Considering the facts and circumstances of the case, this Court is of the view that, these are issues which cannot be resolved through Article 226 of the Constitution, especially, when the petitioners have an alternative remedy.

Accordingly, this writ petition is disposed of relegating the petitioners to seek alternative remedy for redressing their grievances. However, coercive proceedings against the petitioners shall be deferred for a period of four weeks to seek alternate remedy.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.