

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 3RD DAY OF JUNE 2015/13TH JYAISHTA, 1937

WP(C).No. 16224 of 2015 (C)

PETITIONER :

**NOORUDEEN,
S/O.MUHAMMED, PUTHENPARAMBIL HOUSE,
NADACKAL KARA, ERATTUPETTA VILLAGE**

**BY ADVS.SRI.PHILIP T. VARGHESE
SRI.THOMAS T. VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA**

RESPONDENT(S) :

- 1. CENTRAL BANK OF INDIA
REPRESENTED BY ITS BRANCH MANAGER, CHEROOTTY ROAD
KOZHIKODE - 673 001.**
- 2. THE AUTHORISED OFFICER,
CENTRAL BANK OF INDIA, 1ST FLOOR, METRO PALACE
OPPOSITE ERNAKULAM TOWN RAILWAY STATION
KOCHI - 682 018.**
- 3. P.MAJMAL
S/O.MUHAMMED, PARANANIYIL HOUSE, THALAPPALAM KARA
ERATTUPETTA - 686 121**

R1 & R2 BY ADV. SRI.DEVAN RAMACHANDRAN, SC

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 16224 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

**EXHIBIT P1 TRUE COPY OF THE JUDGMENT OF THE MUNSIFF'S COURT
ERATTUPETTA IN O.S NO 307/2014 DATED 12-03-2015.**

**EXHIBIT P1(a) TRUE COPY OF THE DECREE PASSED BY THE MUNSIFF'S COURT,
ERATTUPETTA IN O.S NO 307/2014 DATED 12-03-2015.**

**EXHIBIT P2 TRUE COPY OF THE POSSESSION NOTICE AFFIXED BY THE 2ND
RESPONDENT DATED 27-05-2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.MUHAMED MUSTAQUE, J.

W.P (C) No.16224 of 2015

Dated this the 3rd day of June, 2015

J U D G M E N T

The petitioner appears to be in occupation of a residential building which was given as a security for obtaining loan by the 3rd respondent from the 1st respondent Bank. Since the 3rd respondent defaulted in repaying the loan amount, the Bank initiated 'SARFAESI' proceedings and evicted the petitioner. The petitioner approached this Court with a prayer to permit him to continue possession and enjoyment on the property at least for six months period to find out an alternate accommodation.

2. The learned Standing Counsel for the Bank opposes the prayer of the petitioner and submits that they have already evicted the petitioner in accordance with law and the petitioner cannot raise complaint against the same. The petitioner's case is that, he has aged parents and school going children and the eviction has caused untold hardships to them.

3. Though notice has been issued to the 3rd respondent by special messenger, he has not entered appearance. Considering the facts and circumstance of the case I am of the view that, since sale proceedings has not been completed yet, the petitioner shall be given three months time with the following conditions :

1. The petitioner shall give an undertaking to the Bank within three days to the effect that, he will vacate unconditionally the entire building on or before 24.08.2015.
2. The petitioner shall hand over the key of the building to the Bank on or before 24.08.2015.
3. The Bank is at liberty to proceed in accordance with law for the sale of the property.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV