

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 22ND DAY OF JUNE 2015/1ST ASHADHA, 1937

WP(C).No. 16569 of 2015 (U)

PETITIONER(S) :

1. K.U.MATHEW,
KUPPAYIL HOUSE, PUZHAMUDI P.O., KALPETTA,
WAYANAD-673 121.
2. RANJITH K.BABY
S/O.K.U.MATHEW, KUPPAYIL HOUSE, PUZHAMUDI P.O.,
KALPETTA, WAYANAD-673 121.
3. JOHNY JOHN,
KUPPAYIL HOUSE, PUZHAMUDI P.O., KALPETTA,
WAYANAD-673 121.
4. MITHUN RAJ,
S/O.JOHNY JOHN, KUPPAYIL HOUSE, PUZHAMUDI P.O.,
KALPETTA, WAYANAD-673 121.

**BY ADVS.SRI.M.P.ASHOK KUMAR
SMT.BINDU SREEDHAR
SMT.R.S.MANJULA**

RESPONDENT(S) :

1. THE AUTHORISED OFFICER,
PUNJAB NATIONAL BANK, CIRCLE OFFICE,
KOZHIKODE-673 001.
2. THE PUNJAB NATIONAL BANK,
KALPETTA BRANCH, WAYANAD-673 121,
REPRESENTED BY ITS MANAGER.

**BY ADV. SRI.SANTHEEP ANKARATH, S.C
ADV. SRI.C.AJITH KUMAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : PHOTOCOPY OF THE POSSESSION CERTIFICATE
DATED 09-06-2005.**

**EXHIBIT P2 : PHOTOCOPY OF THE RECEIPTS SHOWING THE REMITTANCE OF
THE AMOUNT IN THE 1ST RESPONDENT BANK.**

EXHIBIT P3 : PHOTOCOPY OF THE NOTICE DATED 23-04-2015.

EXHIBIT P4 : PHOTOCOPY OF THE E-AUCTION SALE NOTICE DATED 25-04-2015.

RESPONDENT(S)' EXHIBITS :

**EXHIBIT R1(A): TRUE COPY OF THE SANCTION LETTER DATED 11.07.2005 IN
RESPECT OF THE LOAN GRANTED TO 2ND PETITIONER.**

**EXHIBIT R1(B): TRUE COPY OF THE SANCTION LETTER DATED 11.07.2005 IN
RESPECT OF THE LOAN GRANTED TO 4TH PETITIONER.**

**EXHIBIT R1(C): TRUE COPY OF THE SALE DEED NO.1741/1994 OF KALPETTA
SUB REGISTRY.**

**EXHIBIT R1(D): TRUE COPY OF THE VALUATION REPORT DATED 13.04.2015 OF
THE PANAL VALUER OF THE RESPONDENTS.**

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 16569 of 2015

Dated this the 22nd day of June, 2015

J U D G M E N T

This petitioners availed education loan. According to the petitioners their secured asset is an agricultural property and cannot be proceed under the SARFAESI Act. Petitioners challenge the steps under the SARFAESI Act.

2. The learned counsel for the Bank submits that the property consists of residential building and merely because of certain agricultural activities done, it cannot be taken as an agricultural property.

3. This Court is of the view that the disputed question of fact whether the property is an agricultural property or not cannot be decided in these proceedings especially when petitioner has alternate remedy. If the petitioners have any grievance against the steps under the SARFAESI Act, the petitioners are at liberty to move the DRT. To work out the above reliefs, all the steps under the SARFAESI Act shall be deferred to for a period of one month.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.