IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WP(C).No.17217 of 2015 (B)

PETITIONER:

MADHU.T.V,AGED 40 YEARS,S/O.VASU,
THEKKOTTU HOUSE,KIZHAKKUMPATTUKARA,
STREET NO.22,THRISSUR - 680 005.

BY ADVS.SRI.M.H.HANIL KUMAR
SRI.M.R.DHANIL
SRI.A.P.VASAVAN

RESPONDENT'S:
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1. STATE BANK OF INDIA,
RASMECCC,WEST PALLITHAMAM BUILDING,
KARUNAKARAN NAMBIAR ROAD,
THRISSUR - 680 020.

2. AUTHORIZED OFFICER,
STATE BANK OF INDIA LTD,
RASMECCC,WEST PALLITHAMAM BUILDING,
KARUNAKARAN NAMBIAR ROAD,
THRISSUR - 680 020.

BY SRI.S.EASWARAN,S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.17217 of 2015 (B)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P-1:A TRUE COPY OF THE LETTER ISSUED TO M/S.SREE VINAYAKA GOLD WORKS DATED 18.6.2011.

EXT.P-2:A TRUE COPY OF THE LETTER ISSUED TO M/S.SREE VINAYAKA GOLD WORKS DATED NIL.

EXT.P-3:A TRUE COPY OF THE DEMAND NOTICE DATED 29.1.2015 ISSUED BY THE FIRST RESPONDENT BANK LTD.

EXT.P-4:A TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER DATED 19.5.2015.

EXT.P-5:A TRUE COPY OF THE POSSESSION NOTICE DATED 6.4.2015 ISSUED BY THE 2ND RESPONDENT ALONG WITH TYPED COPY.

EXT.P-6:A TRUE COPY OF THE ACCOUNT STATEMENT OF SREE VINAYAKA GOLD WORKS DATED 22.9.2014.

EXT.P-7:A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE RESPONDENTS DATED 4.6.2015.

EXT.P-8:A TRUE COPY OF THE POSSESSION NOTICE PUBLISHED IN MATHRUBHOOMI DAILY ON 6.6.2015

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.17217 of 2015

Dated this the 10th day of June, 2015

J U D G M E N T

The petitioner availed an overdraft facility from the respondent Bank. The petitioner failed to service interest and to repay the loan amount in time. Hence, the Bank initiated 'SARFAESI' proceedings. It is now submitted that, the Bank has already taken over the possession of the residential building which was given as a security for availing the overdraft facility.

2. The learned counsel for the petitioner submits that, he is prepared to renew the overdraft facility and to operate the account. However, the learned Standing Counsel for the Bank submits that, the petitioner has no business and there is no much stock and therefore, the Bank cannot accept the request of the petitioner.

3. Considering the fact that, the secured asset is a residential building, this writ petition is disposed of with the following directions:

The Bank shall return the secured asset to the petitioner on payment of ₹5,00,000- (Rupees Five lakhs only) by the petitioner on or before 25.06.2015. If the amount is paid by the petitioner as directed above, the Bank shall give three months time thereafter to the petitioner to discharge the entire liability. If the petitioner makes a request for overdraft facility after deposit of ₹5,00,000/-, such request shall be considered by the Bank.

It is made clear that, if the petitioner fails to comply with any of the above directions, the Bank is at liberty to proceed against the petitioner with 'SARFAESI' proceedings from the stage where it stands now. In that event, the petitioner shall surrender the possession of the property to the Bank. The petitioner shall also give an undertaking before the Bank to the said effect.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV