

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

WP(C).No. 17616 of 2015 (B)

PETITIONER :

**C.P.VARGHESE, AGED 50 YEARS,S/O.LATE PAILY,
KUNNAPALLISSERY HOUSE, PULIYANAM P.O.
VIA ANGAMALY, ERNAKULAM-683572.**

BY ADV. SRI.N.K.MOHANLAL

RESPONDENT :

**AUTHORISED OFFICER
CANARA BANK, C.C.36/2202 B, 1ST FLOOR,
GURU MADHAVENDRA TOWERS, KALOOR,
KADAVANTHRA ROAD, KOCHI-682017.**

**BY SRI.PAULY MATHEW MURICKEN,SC,CANARA BAN
BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 17616 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: A TRUE COPY OF THE NOTICE UNDER SECTION 13(2) OF SARFAESI ACT DATED 08.12.2014.

EXHIBIT-P2: A TRUE COPY OF THE JUDGMENT OF HON'BLE HIGH COURT OF KERALA IN W.P.(C) NO.7835/2015 DATED 06.04.2015.

EXHIBIT-P3: A TRUE COPY OF THE BANK STATEMENT.

EXHIBIT-P4: A TRUE COPY PHOTOGRAPHS OF THE PROPERTY SHOWING NUTMEG CULTIVATION.

EXHIBIT-P5: A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 12.01.2013 ISSUED BY LISIE HOSPITAL, ERNAKULAM.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.17616 of 2015

Dated this the 12th day of June, 2015

J U D G M E N T

The petitioner is a guarantor for a cash credit facility availed by the borrower one Tichu Tomy from the respondent Bank. The petitioner's property has been offered as secured asset. The petitioner is now threatened with 'SARFAESI' proceedings. Hence, this writ petition.

2. The petitioner submits that, he is prepared to settle the entire liability within a period of six months, if he is permitted to sell a portion of the property. It is further submitted that, the property is agricultural property and the Bank cannot proceed under SARFAESI Act against the same.

3. It seems that, there are a number of writ petitions filed by the borrower and in spite of certain directions of this Court, nothing materialised to discharge the liability of the borrower.

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

1. If the petitioner has serious disputes regarding the nature of the property, the petitioner is at liberty to approach the DRT challenging the steps under SARFAESI Act.

2. The petitioner's request for six months time and for the sale of a portion of the property shall be placed before the Bank. The petitioner has to make such a request within a period of one week

from the date of receipt of a copy of this judgment. Thereafter, the Bank shall consider the same within a further period of three weeks. To work out the above reliefs, SARFAESI proceedings are deferred for a period of one month.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE.

AV