

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. 18724 of 2015 (M)

PETITIONER(S):

1. JOSE SANTHOSH, AGED 40 YEARS,
S/O ROCKEY PERAIRA, T.C.34/1307, SANTHOSH HOUSE,
NEAR FCI, AIRPORT ROAD, VALLAKKADAVU P.O.
THIRUVANANTHAPURAM-695008.
2. MABLE ROCKEY, AGED 65 YEARS,
W/O ROCKEY PERAIRA, T.C.34/1307, SANTHOSH HOUSE,
NEAR FCI, AIRPORT ROAD, VALLAKKADAVU P.O.
THIRUVANANTHAPURAM-695008.
3. ROCKEY PERAIRA, AGED 67 YEARS,
S/O SEBASTIAN, T.C.34/1307, SANTHOSH HOUSE,
NEAR FCI, AIRPORT ROAD, VALLAKKADAVU P.O.
THIRUVANANTHAPURAM-695008.

BY ADV. SRI.P.ANOOP (MULAVANA)

RESPONDENT(S):

1. DISTRICT LEGAL SERVICE AUTHORITY,
THIRUVANANTHAPURAM DISTRICT,
REPRESENTED BY ITS MEMBER SECRETARY, PIN-695001.
2. THE AUTHORIZED OFFICER,
STATE BANK OF TRAVANCORE,
STRESSED ASSETS RESOLUTION CENTRE (SARC)
ZONAL OFFICE, KSHB BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM-695001.

R2 BY ADV. SRI.JAWAHAR JOSE, SC

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

PJ

WP(C).No. 18724 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE JUDGEMENT DATED 7.3.2012. IN WPC.5609/12

EXHIBIT P2: TRUE COPY OF THE NOTICE IN CMP 3552/2014 IN MC NO.14/2012.

**EXHIBIT P3: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC
32203/2014.**

EXHIBIT P4: TRUE COPY OF THE RELEVANT PAGES OF THE PASS BOOK.

**EXHIBIT P5: TRUE COPY OF THE MODIFICATION PETITION FILED BY THIS HON'BLE
COURT IN WPC 32203/2014 AS IA NO.4762/2015.**

**EXHIBIT P6: TRUE COPY OF THE PETITION NO.PLC 11051/2015 PREFERRED BY
THE PETITIONER BEFORE THE IST RESPONDENT DATED 17.6.2015.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J.

W.P.(C). No. 18724 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

The petitioners approached this Court earlier impugning SARFAESI proceedings by filing two writ petitions. Exts.P1 and P3 are the judgments in earlier rounds, wherein the petitioners have been given certain facilities to wipe off the liability.

2. It is submitted that the petitioners have only partially honoured the directions. Accordingly, the Bank initiated SARFAESI proceedings. The secured asset is a residential building. The petitioners request that, they may be permitted to discharge the entire liability in 10 monthly instalments. Now the demand is around ₹5,67,311/-.

3. I am of the view that, it will not be proper for this Court to exercise the discretionary jurisdiction, in view of other judgments already passed by this Court. However, if the petitioners make a request before the Bank, the Bank shall consider and if possible, take a lenient view considering the fact that the secured asset is a residential building. The request shall

be made within one week. The Bank shall take appropriate decision within one month thereafter. To work out all alternative remedies, the coercive steps, if any, shall be deferred for a period of two months, on condition that the petitioners remit ₹50,000/- on or before 07.07.2015 and another sum of ₹50,000/- on or before 05.08.2015. If petitioners fail to honour the conditions, the Bank is free to proceed with the matter.

The writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.

Pn