

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 20030 of 2015 (C)

PETITIONER(S):

- 1. M/S.SURABHI STEELS (P) LTD AGED 66 YEARS
HAVING ITS ADMN. OFFICE AT SURABHI, 14/690, 691
STADIUM BUS STAND, KALMANDAPAM, PALAKKAD 678001
REPRESENTED BY ITS MANAGING DIRECTOR
KADER PILLAI KS, S/O.KA SAIDALI, RUKIYA BAGH
ROYAL LANE, KADAVANTHRA, ERNAKULAM
PIN 682020**
 - 2. M/S.SURABHI STEEL ROLLING MILLS PVT. LTD.
HAVING ITS ADMN. OFFICE AT SURABHI, 14/690, 691
STADIUM BUS STAND, KALMANDAPAM, PALAKKAD 678001
REPRESENTED BY ITS MANAGING DIRECTOR
KADER PILLAI KS, S/O.KA SAIDALI, RUKIYA BAGH
ROYAL LANE, KADAVANTHRA, ERNAKULAM
PIN 682020**
 - 3. M/S. SURABHI IRON & STEEL CO. PVT. LTD.
REG.OFFICE 41/3, M.G.C. PALAYAM, KURUKAMPALAYAM PO
GANESAPURAM, COIMBATORE 641107
REPRESENTED BY ITS MANAGING DIRECTOR
KADER PILLAI KS, S/O.K.A SAIDALI, RUKIYA BAGH
ROYAL LANE, KADAVANTHRA, ERNAKULAM
PIN 682020**
 - 4. KADER PILLAI K.S
S/O.KA SAIDALI, RUKIYA BAGH, ROYAL LANE
KADAVANTHRA, ERNAKULAM, PIN 682020**
- BY ADVS.SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SRI.V.S.SHIRAZ BAVA
SRI.JOSEPH KURIAN VALLAMATTAM**

RESPONDENT(S):

- 1. M/S. INDIAN OVERSEAS BANK
OPPANAKKARA STEET BRANCH, OPPANAKARA STREET
COIMBATORE, PIN 641001**

**2. THE AUTHORIZED OFFICER
INDIAN OVERSEAS BANK, OPPANAKKARA STREET BRANCH
OPPANAKARA STREET, COIMBATORE, PIN 641001**

BY SRI.SUNIL SHANKAR, SC, INDIAN OVERSEAS BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr.

WP(C).No. 20030 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:TRUE COPY OF THE DEMAND NOTICE DATED 15.10.2014 UNDER SECTION 13(2)OF
THE SARFAESI ACT, 2002**

**P2:TRUE COPY OF THE DEMAND NOTICE DATED 15.10.2014 ISSUED TO THE 2ND
PETITIONER**

**P3:TRUE COPY OF THE DEMAND NOTICE DATED 15.10.2014 ISSUED TO THE 3RD
PETITIONER**

P4:TRUE COPY OF THE DEED OF SETTLEMENT DATED 28.02.2015

**P5:TRUE COPY OF THE POSSESSION NOTICE ISSUED BY RESPONDENT BANK
PUBLISHED IN NEW SUNDAY EXPRESS DATED 03.05.2015**

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.S.TO JUDGE

vmr.

A.MUHAMED MUSTAQUE, J.

W.P.(C).No.20030 of 2015

Dated this the 10th day of July, 2015

J U D G M E N T

The petitioners availed a cash credit facility from the respondent Bank. On account of default in repaying the loan amount, the Bank initiated 'SARFAESI' proceedings against the petitioners. The same is under challenge in this writ petition.

2. The learned counsel for the petitioners submits that, the petitioners are prepared to remit a portion of the demand and the Bank may be directed to renew the cash credit facility.

3. The learned Standing Counsel for the Bank submits that, the total amount due from the petitioners is around ₹40 lakhs and that, the Bank cannot consider the request of the petitioners as the period is over.

4. It is submitted by the learned counsel for the petitioners that, the petitioners are running unit and due to adversities in the market they were unable to clear the liability.

5. Considering the facts and circumstances, I am of the view that, it is for the petitioners to approach the Bank with the details regarding functioning of the unit. Necessarily, if genuineness of the petitioners is established, the Bank should consider the request for renewal in accordance with the norms of the Bank.

6. In view of the above, this writ petition is disposed of with

the following directions :

1. The petitioners shall remit an amount of ₹1,00,00,000/-
(Rupees One crore only) within one month from today.
2. The petitioners shall submit the request for renewal of
cash credit facility before the Bank within three weeks
from today.
2. If the petitioners deposit the amount as stipulated
above, the Bank shall consider petitioners' request as
per the norms of the Bank.
4. To work out above reliefs, all coercive proceedings
against the petitioners shall be deferred for a period of
two months from today.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.

AV