

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 20601 of 2015 (A)

PETITIONER :

BINDU R.K.,
AGED 44 YEARS, W/O.B.KRISHNAN NAIR,
LAKSHMI BHAVAN, MATHOORKONAM
KALLIYOOR P.O., KALLIYOOR
THIRUVANANTHAPURAM - 695 042.

BY ADV. SRI.N.P.PRAJEESH

RESPONDENT(S) :

-
1. MANAGER,
CORPORATION BANK, VELLAYAMBALAM BRANCH,
BHADRANJALI, K.R.ELANGATH ROAD, VELLAYAMBALAM
SASTHAMANGALAM, THIRUVANANTHAPURAM - 695 010.
 2. AUTHORIZED OFFICER,
CORPORATION BANK, BHADRANJALI,
K.R.ELANGATH ROAD, VELLAYAMBALAM
SASTHAMANGALAM, THIRUVANANTHAPURAM - 695 010.
 3. M/S.MARGIN FREE MARKET,
NETTAYAM, NEDUMPURAM BUILDING,
ASHRAMAM ROAD, NETTAYAM P.O.
THIRUVANANTHAPURAM - 695 013
REPRESENTED BY ITS PROPRIETRIX
MRS.JAYALEKSHMI V., W/O.LATE PRADEEPAKUMAR P.
THIRUVANANTHAPURAM - 695 013.
 4. K.BHUVANENDRAN NAIR,
S/O.KRISHNAN NAIR, 'KRISHNA', NETTARA
(MELEPUTHEN VEEDU),
VAYALIKADA RESIDENTS' ASSOCIATION NO.39, VP 771 (A)
VATTIYURKAVU P.O., THIRUVANANTHAPURAM - 695 013.
 5. MRS.JAYASREE V.,
W/O.SURESH, 'THIRUVATHIRA', F9, DEEPU NAGAR,
KADAYIL MUDUMPU ROAD, KULASEKHARAM, KODUNGANNOOR P.O.
THIRUVANANTHAPURAM - 695 013.

R1 & R2 BY ADV. SRI.S.B.PREMACHANDRA PRABHU
R4 BY ADV. SRI.S.JUSTUS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

- | | |
|---------|--|
| EXT. P1 | PHOTOCOPY OF THE SALE DEED NO.1199/94 OF NEMOM S.R.O.DATED 9.5.1994. |
| EXT. P2 | PHOTOCOPY OF THE NOTICE DATED 16.3.2015 ISSUED BY THE 1ST RESPONDENT. |
| EXT. P3 | PHOTOCOPY OF THE POSSESSION NOTICE DATED 23.6.2015 ISSUED BY THE 2ND RESPONDENT. |
| EXT. P4 | PHOTOCOPY OF THE RELEVANT PAGE OF THE RATION CARD OF THE PETITIONER. |
| EXT. P5 | PHOTOCOPY OF THE DISCHARGE SUMMARY ISSUED FROM THE SREE UTHRADOM THIRUNAL HOSPITAL, THIRUVANANTHAPURAM ON 2.12.2013. |

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 20601 of 2015

Dated this the 10th day of August, 2015

J U D G M E N T

The petitioner is a Guarantor for the loan availed by the 3rd respondent. The respondents 4 & 5 appears to be another Guarantors to the loan.

2. The petitioner submits that being a neighbour and relative, she helped the 3rd respondent by offering her property as a security for the loan availed by the 3rd respondent. It is further submits that the 3rd respondent has cheated her by non-paying the loan amount. Petitioner submits that, the secured assest is only a place of residence for them. Petitioner and her husband is undergoing treatment and has no other means to wipe off the huge liability of more than ₹82 lakhs.

3. The 3rd respondent is appears to be absconding. Notice served to her was returned endorsement as 'addressee left'.

4. The learned counsel for the Bank submits that, the 3rd respondent is absconding and the business is closed down. It is submitted that the petitioner's property along with other

properties are required for the realisation of the liability.

5. This Court is of the view that, before proceeding further by the Bank, the Bank shall make every endeavor, if otherwise as feasible, to exclude the residential building of the petitioner. The Bank shall sell other properties of the borrower as well as the guarantors to recover the loan amount. However, if the residential building cannot be excluded, the Bank is free to sell the residential building along with other property belonging to the petitioner.

This writ petition is disposed of as above by directing the Bank to proceed further in the light of the observations as above.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE.

Pn