

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 21382 of 2014 (W)

PETITIONER:

**SUMANA KUMAR AGED 52 YEARS
S/O. KRISHNAN, ARAVIND BHAVAN, KOLLAMKONAM
AMACHAL P.O., KATTAKKADA.**

**BY ADVS.SRI.S.V.PREMAKUMARAN NAIR
SRI.R.T.PRADEEP**

RESPONDENTS

**1. AUTHORISED OFFICER
STATE BANK OF INDIA, STRESSED ASSETS RECOVERY BRANCH
1ST FLOOR, SANGAMAM, GAS HOUSE JUNCTION
PALAYAM, THIRUVANANTHPUARM-695011.**

**2. MANAGER
STATE BANK OF INDIA, VALIYAVILA BRANCH-695121.**

*** ADDL. R3 IMPEADED**

**Addl.R3. ASSET RECONSTRUCTION COMPANY LTD
THE RUBY 10TH FLOOR, 29, SENAPATHI
BAPAT MARG, DADAR (WEST), MUMBAI 400 028.**

[ADDL.R3 IS IMPEADED AS PER ORDER DATED 20/09/2014 IN IA. 12388/2014]

**R1&R2 BY ADV. SRI.R.S.KALKURA, SC, SBI
R3 BY ADV. SRI.R.SUNIL KUMAR
R3 BY ADV. SMT.A.SALINI LAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-10-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 21382 of 2014 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: COPY OF LOAN CLOSURE STATEMENT CALCULATING THE
OUTSTANDINGS AS ON 19-7-2014.**

**EXHIBIT P2: COPY OF NOTICE DATED 4-2-2013 UNDER SECTION 13(2) OF SARFAESI
ACT.**

**EXHIBIT P3: COPY OF THE RECEIPT DATED 18-7-2014 AS TO REMITTANCE OF
RS. 10,000/-**

RESPONDENT(S)' EXHIBITS: N I L

//TRUE COPY//

P.A.TO JUDGE

JV

ANIL K. NARENDRA, J.

W.P.(C) No.21382 of 2014

Dated this the 08th day of October, 2015

JUDGMENT

The petitioner, who availed a housing loan of Rs.2,75,000/- from Valiyavila Branch of State Bank of India in the year 2003 by creating security interest on an extent of 4.60 cents comprised in Re-Survey No.1821/1/17 of Kolathummil Village, has filed this writ petition seeking a writ of certiorari to quash Ext.P2 notice dated 04.02.2013 issued by the respondent Bank under Section 13(2) of the SARFAESI Act and seeking a writ of mandamus commanding the respondent Bank to allow her to pay the entire outstanding in 20 equal monthly installments commencing from 01.10.2014 onwards. Since the secured asset has already been transferred in favour of Asset Reconstruction Company, that company has been impleaded as additional 3rd respondent by order dated 20.09.2014 in I.A.No.12388/2014.

2. Today when the case was taken up for final hearing, the learned counsel for the petitioner would submit that the petitioner may be granted a reasonable opportunity to clear the

aforesaid liability in monthly installments.

3. The learned Standing Counsel for the State Bank of India and the learned counsel for the 3rd respondent would submit that the total amount outstanding in respect of the housing loan in question comes to Rs.3,15,000/- and that the petitioner has not made any payment subsequent to the filing of this writ petition.

4. I heard arguments of the learned counsel for the petitioner, the learned Standing Counsel appearing for respondents 1 and 2 and also the learned counsel appearing for the 3rd respondent.

5. The petitioner is not disputing the liability in respect of the housing loan availed by her from the Valiyavila Branch of the State Bank of India and also the fact that the secured asset has already been transferred to the 3rd respondent. The petitioner is only seeking a reasonable time to clear the amount outstanding in equal monthly installments.

In such circumstances, considering the facts and circumstances of the case, this writ petition is disposed of directing the petitioner to clear the balance amount outstanding in the housing loan in question amounting to Rs.3,15,000/- in six

equal monthly instalments commencing from 01.11.2015. If the petitioner is remitting the monthly installments as aforesaid without any default, all coercive steps against the property in question shall be kept in abeyance. It is made clear that if the petitioner commits any default in remitting any one of the monthly installments it would be open to the 3rd respondent to proceed further with Ext.P2 notice.

JV

Sd/-
ANIL K. NARENDRA,
JUDGE