

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 21911 of 2015 (L)  
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PETITIONER(S):  
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R.S.VIJI  
MAMPAZHAKARA, PERUMPAZHUTHOOR P.O.,  
THIRUVANANTHAPURAM.

BY ADVS.SMT.SINDHU MURALEEDHARAN  
SMT.V.SHARMILA  
SMT.I.J.ANNIE

RESPONDENT(S):  
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1. STATE BANK OF TRAVANCORE  
2ND FLOOR, CHANDRASHEKHARAN NAIR STADIUM COMPLEX,  
PALAYAM, THIRUVANANTHAPURAM 695 033.
2. JOSEPHINE JOSHUA,  
PP XVIII/1042, PRAVACHAMBALAM,  
NEMOM P.O.,  
THIRUVANANTHAPURAM 695 020.

R1 BY ADV. SRI.JAWAHAR JOSE, STATE BANK OF TRAVANCORE  
R2 BY ADVS. SMT.K.P.SANTHI  
SRI.R.JAYAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

EXT.P1        TRUE COPY OF THE NOTICE DATED 28.02.2014 ISSUED BY THE  
RESPONDENT.

EXT.P2        TRUE COPY OF THE AGREEMENT DATED 20.05.2015.

EXT.P3        TRUE COPY OF THE RECEIPT DATED 22.07.2015

RESPONDENTS' EXHIBITS

EXT.R(1) (A) TRUE COPY OF THE ORDER DATED 5.5.2014 IN  
C.M.P.NO.426/20145 OF THE CHIEF JUDICIAL MAGISTRATE  
COURT, THIRUVANANTHAPURAM.

/TRUE COPY/

P. A. TO JUDGE

**A. MUHAMED MUSTAQUE, J.**

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**W.P(C). No. 21911 of 2015**  
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**Dated this the 12<sup>th</sup> day of August, 2015**

**J U D G M E N T**

The petitioner claims that he was in possession of secured assets. The petitioner has been dispossessed pursuant to SARFAESI proceedings by the respondent Bank. The borrower is the 2<sup>nd</sup> respondent. Petitioner submits that he is prepared to clear the overdue amount due to the Bank and the Bank may be directed to return the possession to him.

2. The learned counsel for the Bank opposes the prayer of the petitioner and submits that the petitioner has no locus standi.

3. If the petitioner is consciously making a payment, the petitioner cannot claim refund of the amount from the Bank. If at all the petitioner is entitled to claim any amount paid to the Bank he can only claim from the 2<sup>nd</sup> respondent.

4. Therefore, with the above observation the petitioner is free to discharge the entire liability to the Bank in 3 monthly instalments, 1<sup>st</sup> of which shall be effected on or before 30.08.2015 followed by similar instalments to be effected on or before 30.09.2015 & 30.10.2015. The Bank shall communicate the

amount due to the petitioner within one week. If the petitioner clears the amount as above, the Bank shall return the possession of the building and documents to the 2<sup>nd</sup> respondent.

This writ petition is disposed of.

**Sd/-**

**A. MUHAMED MUSTAQUE, JUDGE.**

Pn