

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 22181 of 2015 (W)

PETITIONER(S) :

- 1. P.R.GANGADHARAN NAIR,
KIZHAKKEPPILLA VEEDU, THALAYIL, BALARAMAPURAM,
THIRUVANANTHAPURAM.**
- 2. ASHOK KUMAR,
KIZHAKKEPPILLA VEEDU, THALAYIL, BALARAMAPURAM,
THIRUVANANTHAPURAM.**
- 3. SANTHAKUMARI AMMA,
KIZHAKKEPPILLA VEEDU, THALAYIL, BALARAMAPURAM,
THIRUVANANTHAPURAM.**

BY ADV. SRI.T.K.ANANDA KRISHNAN

RESPONDENT(S) :

- 1. THE AUTHORIZED OFFICER,
UNION BANK OF INDIA, REGIONAL OFFICE, STATUE,
THIRUVANANTHAPURAM- 695 002.**
- 2. THE BRANCH MANAGER,
UNION BANK OF INDIA, KARAMANA BRANCH, KARAMANA,
THIRUVANANTHAPURAM- 695 002.**

BY ADV. SRI.A.S.P.KURUP, S.C, U.B.I

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND RESPONDENT.**
- EXT.P2: TRUE COPY OF THE NOTICE ISSUED TO THE 1ST PETITIONER UNDER SECTION 13 (2) OF THE SARFAESI ACT.**
- EXT.P3: TRUE COPY OF THE NOTICE ISSUED TO THE 2ND PETITIONER UNDER SECTION 13 (2) OF THE SARFAESI ACT.**
- EXT.P4: TRUE COPY OF THE NOTICE ISSUED TO THE 3RD PETITIONER UNDER SECTION 13 (2) OF THE SARFAESI ACT.**
- EXT.P5: TRUE COPY OF THE OBJECTION FILED BY THE 1ST PETITIONER UNDER SECTION 13 (A) OF THE SARFAESI ACT, 2002.**
- EXT.P6: TRUE COPY OF THE OBJECTION FILED BY THE 2ND PETITIONER UNDER SECTION 13 (3A) OF THE SARFAESI ACT, 2002.**
- EXT.P7: TRUE COPY OF THE OBJECTION FILED BY THE 3RD PETITIONER UNDER SECTION 13 (3A) OF THE SARFAESI ACT, 2002.**
- EXT.P8: TRUE COPY OF THE LAWYER'S NOTICE ISSUED TO THE 1ST PETITIONER.**
- EXT.P9: TRUE COPY OF THE LAWYER'S NOTICE ISSUED TO THE 2ND PETITIONER.**
- EXT.P10: TRUE COPY OF THE LAWYER'S NOTICE ISSUED TO THE 3RD PETITIONER.**
- EXT.P11: TRUE COPY OF THE REPLY TO THE OBJECTION ISSUED BY THE 1ST RESPONDENT TO 1ST PETITIONER.**
- EXT.P12: TRUE COPY OF THE REPLY TO THE OBJECTION ISSUED BY THE 1ST RESPONDENT TO 2ND PETITIONER.**
- EXT.P13: TRUE COPY OF THE REPLY TO THE OBJECTION ISSUED BY THE 1ST RESPONDENT TO 3RD PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 22181 of 2015

Dated this the 4th day of August, 2015

J U D G M E N T

The petitioners are borrowers from the respondent Bank. Petitioners have approached this Court challenging SARFAESI proceedings. Main grievance of the petitioners is that, the reply given by the Bank to the objection raised by the petitioners for the notice issued under Section 13(2) is unsustainable. Petitioners' case is that, petitioners' objection has not been adverted or considered in the reply.

2. The petitioners apparently raised certain issues which is unrelated to the loan account. The allegation is that, the Branch Manager of the Bank namely Chokalingam misappropriated huge amounts from the petitioners' account. Ext.P1 is the compliant of the petitioners before the 2nd respondent. It shows that there are some transactions between the Manager and petitioners. The Bank as an institution cannot be called upon to accept such dealings of a Manager and borrower in his private capacity. Therefore the reply given by the Bank, though it was an answer to the objection, according to me,

is in legal compliance with the relevant provisions under Section 13(3A) of SARFAESI Act. The legal compliance and satisfactory reply are two different concerns. Whether the petitioner is satisfied with the reply or not, is a matter to be adjudicated in appropriate manner. The Bank having given a reply in compliance of Section 13(3A), this Court does not find any infirmity with the reply given by the Bank.

3. Accordingly, this writ petition is disposed of with liberty to the petitioners to challenge the proceedings under SARFAESI Act before the DRT, if petitioners have any dispute regarding liability. However, to enable the petitioners to avail alternative remedy, if any available, the Bank shall defer all coercive steps against the petitioners for a period of three weeks.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE.