

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 22687 of 2015 (I)

PETITIONER(S):

**R.SYAMKUMAR,
TC 39/1814, KITTOOS COMPLEX, MANACAUD,
THIRUVANANTHAPURAM.**

BY ADV. SRI.M.R.SASITH

RESPONDENT(S):

**AUTHORISED OFFICER,
ORIENTAL BANK OF COMMERCE,
M.G ROAD, THIRUVANANTHAPURAM 695 001.**

BY SRI.K.P.SUJESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 22687 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE JUDGMENT OF THE WRIT PETITION NO.10615/15.

**EXHIBIT P2. COPY OF THE ORDER IN MC 483/15 PASSED BY THE CHIEF JUDICIAL
MAGISTRATE COURT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S TO JUDGE

PJ

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 22687 of 2015

Dated this the 28th day of July, 2015

J U D G M E N T

The petitioner impugning SARFAESI proceedings has approached this Court.

2. It is admitted that the petitioner has earlier approached this Court in WP(C) No.10615/2015. Petitioner has not been complied with the directions of this Court in Ext.P1 judgment.

3. The present case of the petitioner is that, the Bank initiated proceedings under Section 14 of the SARFAESI Act and petitioner was never given notice. Petitioner submits that the learned Magistrate passed an order on 08.05.2015 and the petitioner came to know about dispossession only on 24.07.2015 and he never knew about the notice. Petitioner submits that he may be given 20 instalments to discharge the entire liability.

4. The learned counsel for the Bank opposes the prayer of the petitioner. It is submitted that the petitioner was put to notice about dispossession.

5. This Court is of the view that the petitioner has already

availed an opportunity, this Court cannot pass any order in this matter. However, taking note of the fact that the petitioner is prepared to move before the DRT, challenging SARFAESI proceedings, following directions are issued:

- (i) The petitioner's cause of action for filing Securitisation Application shall be reckoned with effect from the date on which the petitioner has been put to notice of dispossession ie; on 24.07.2015
- (ii) If the petitioner files any Securitization Application, the limitation shall be reckoned only with effect from 24.07.2015.
- (iii) To enable the petitioner to work out remedy before the DRT, petitioner shall not be dispossessed for a period of 10 days.

This writ petition is disposed of.

Sd/-

A. MUHAMED MUSTAQUE, JUDGE.