

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. 23898 of 2015 (J)

PETITIONER(S):

**JACOB OOMMEN, S/O.KOCHUMMEN, AGED 53 YEARS,
MANATHARAYIL HOUSE, VAZHUTHANAM,
PALLIPAD, HARIPAD, PROPRIETOR OF THE ROYALE GARDENS,
NANGIARKULANGARA P.O., HARIPAD, ALAPPUZHA - 690 513.**

BY ADV. SRI.A.KRISHNAN

RESPONDENT(S):

- 1. THE BRANCH MANAGER, PUNJAB NATIONAL BANK, NSS BUILDING,
MADHAVA JUNCTION, HARIPAD,
ALAPPUZHA DISTRICT - 690 514.**
- 2. AUTHORIZED OFICER & CHIEF MANAGER, PUNJAB NATIONAL BANK,
CIRCLE OFFICE NO.40/1461, 2ND FLOOR, MARKET ROAD,
ERNAKULAM - 682 011.**
- 3. CIRCLE HEAD, ARMB, CIRCLE OFFICE, PUNJAB NATIONAL BANK,
CIRCLE OFFICE NO.40/1461, 2ND FLOOR, MARKET ROAD
ERNAKULAM - 682 011.**

BY SRI.SANTHEEP ANKARATH, SC

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

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- COPY OF THE NOTICE DATED 09/01/2015 ISSUED U/S 13 (2) OF THE
SAFAESI ACT, 2002.
- EXHIBIT-P2- TRUE COPY OF THE LETTER DATED 21/01/2015 ISSUED TO THE
PETITIONER.
- EXHIBIT-P3(A)-TRUE COPY OF THE LETTER DATD 21/04/2015 ISSUED U/S 13 (4) OF THE
SARFAESI ACT, 2002.
- EXHIBIT-P3(B)-TRUE COPY OF THE LETTER DATED 21/04/2015 ISSUED U/S 13 (4) OF THE
SARFAESI ACT, 2002.
- EXHIBIT-P3(C)-TRUE COPY OF THE LETTER DATED 21/04/2015 ISSUED U/S 13 (4) OF THE
SARFAESI ACT, 2002.
- EXHIBIT-P4- TRUE COPY OF THE LAWYER'S LETTER DATED 02/05/2015 TO THE
RESPONDENTS
- EXHIBIT-P5- TRUE COPY OF THE REPLY LETTER DATED 13/05/2015 SENT BY THE 2ND
RESPONDENT.
- EXHIBIT-P6- TRUE COPY OF THE NEWS PAPER PUBLICATION IN MATHRUBHOOMI
DAILY DATED 03/07/2015.
- EXHIBIT-P7- TRUE COPY OF THE INTERIM STAY ORDER OF THE HONOURABLE DEBT
RECOVERY TRIBUNAL DATED 16/06/2015.
- EXHIBIT-P8- TRUE COPY OF THE NOTICE DATED 04/08/2015.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.23898 of 2015

Dated this the 10th day of August, 2015

JUDGMENT

The petitioner availed a cash credit facility as well as term loan from the respondent Bank. The petitioner approached the Debts Recovery Tribunal in S.A.No.240/2015 challenging the SARFAESI proceedings. In the Securitisation Application, an interim order was passed on 16.6.2015 and directed the petitioner to remit Rs.50 lakhs on or before 30.6.2015 and another sum of Rs.50 lakhs on or before 20.7.2015. It appears that the petitioner could not remit the payment. Threatened with dispossession, the petitioner has approached this Court.

2. The petitioner submits that he is prepared to withdraw S.A.No.240/2015. The petitioner's only prayer is that he may be given an instalment facility to discharge the entire liability. The petitioner also submits that he is attempting for private sale to discharge the entire liability.

3. Learned counsel for the Bank opposes the prayer of the petitioner and submits that the total liability of the petitioner is would come to Rs.7.5 crores.

Considering the facts and circumstances, this writ petition is disposed of with the following directions:

- i. The petitioner shall remit Rs.1 crore on or before 15.9.2015.
- ii. Thereafter, the petitioner shall remit Rs.25 lakhs for every month for a period of five months and in the sixth month, the petitioner shall discharge the entire balance amount in lumpsum.
- iii. If the petitioner commits default in remitting anyone of the instalments, the Bank is free to dispossess the petitioner and proceed against the secured assets in accordance with law.
- iv. In view of the above directions, the petitioner shall file a memo before the Debts Recovery Tribunal withdrawing S.A.No.240/2015 within ten days from the date of receipt of a copy of this judgment.

- v. S.A.No.240/2015 shall be treated as withdrawn by the petitioner.
- vi. Coercive steps shall be deferred in tune with the above directions.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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