

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 25906 of 2014 (K)

PETITIONERS:

1. ASOKAN V, AGED 44 YEARS,
S/O.VISWANATHAN ASSARY, A.G NIVAS, KATTUKANDAM
MANNOORKKARA VILLAGE, KATTAKKADA TALUK, PANNIYODU P.O
THIRUVANANTHAPURAM DISTRICT PIN 695 575
2. GAYATHRI, AGED 39 YEARS
W/O.ASOKAN V, A.G NIVAS
KATTUKANDAM, MANNOORKKARA VILLAGE, KATTAKKADA TALUK
PANNIYODU P.O
THIRUVANANTHAPURAM DISTRICT PIN 695 575

BY ADV. SRI.R.B.RAJESH

RESPONDENTS:

1. THE MANAGER, POOVACHAL RURAL HOUSING
CO-OPERATIVE SOCIETY LTD NO 355
POOVACHAL BRANCH, THIRUVANANTHAPURAM 695 575
2. THE ARBITRATOR-CUM-SPECIAL SALE OFFICER(AUTHORISED
OFFICER),KERALA STATE CO-OPERATIVE HOUSING
FEDERATION,REGIONAL OFFICE,MALLOOR ROAD,VANCHIYOOR
P.O,THIRUVANANTHAPURAM 695 035

R2 BY GOVERNMENT PLEADER SRI. REJI JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 25906 of 2014 (K)

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE SALE NOTICE DATED 13-08-2014

EXHIBIT P2: TRUE PHOTOCOPY OF THE REPRESENTATION DATED 04-10-2014

RESPONDENT'S EXHIBITS:

EXHIBIT R2(a) : PHOTOCOPY OF THE AWARD NO.1431/2011 DATED 03.12.2011

EXHIBIT R2(b): PHOTOCOPY OF THE GAHAN DATED 18.3.2008.

//true copy//

P.A TO JUDGE

smv

SHAJI P. CHALY, J.

W.P.(C) No.25906 of 2014

Dated this the 9th day of November, 2015

JUDGMENT

This Writ Petition is filed by the petitioners seeking a direction to the respondents not to dispossess the petitioners from the mortgaged property pursuant to Ext.P1 demand made by the respondents and for other related reliefs.

2. Brief facts for the disposal of the Writ Petition are as follows:

3. Petitioners availed a loan of Rs.1,25,000/- from the 1st respondent in the year 2008. Towards security to the loan availed, an extent of 2.50 Ares of property comprised in re-survey No.359/13 of Mannoorkkara Village, Nedumangad Taluk, Thiruvananthapuram District belonging to the petitioners was provided. It is the contention of the petitioners that, due to certain financial constraints, the loan could not be repaid and the respondents have issued sale notice for realization of an amount of Rs.2,24,386/-. The sale was fixed by the 2nd respondent as per Ext.P1 notice dated 13.8.2014 on 16.10.2014.

It is under these circumstances, petitioners have approached this Court seeking the relief sought for.

4. Second respondent has filed a counter affidavit contending that the entire actions initiated by the respondents are in accordance with law and in order. Further more, it is contended that petitioners have not put forth any legal submissions so as to disturb the actions initiated by the respondents.

5. At the time of admission, stay was granted by this Court on condition that petitioner remits an amount of Rs.20,000/- on or before 15.10.2014. It is submitted by the learned counsel for the petitioner that the said amount was deposited and he may be permitted to pay the balance amount in equal monthly installments spreading over a period of two years.

6. Learned counsel for the 2nd respondent submitted that the 2nd respondent has no objection in the petitioners wiping off the loan amount in installments but under no circumstances two year period can be granted and learned counsel submits that five equal monthly installments would be sufficient to wipe off the loan amount.

7. Heard learned counsel for the petitioners as well as the

learned counsel for the 2nd respondent.

8. Having considered the rival submissions and facts and circumstances of the case, I think the Writ Petition can be closed by providing reasonable installment facility to the petitioners to wipe off the loan amount. Even though learned counsel for the petitioners requested two years' period, it is an unreasonable period especially when the action was initiated in the year 2011. Therefore, according to me, 8 installments would be sufficient and reasonable time for the petitioners to wipe off the loan amount.

9. Therefore, in the facts and circumstances of the case, I dispose of this Writ Petition directing the petitioners to remit the balance amount in 8 equal monthly installments starting from 01.12.2015 onwards. It is made clear that if any two consecutive installments are defaulted by the petitioners, respondents will be at liberty to proceed against the entire balance loan amount.

Writ Petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

smv
09.11.2015

P.A. To Judge