

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 27158 of 2015 (T)

PETITIONER:

MRS.THAHIRA BEEVI, AGED 48 YEARS,
W/O. BABY MUBARAK, S.E DALE, KUTTIKADA P.O.,
PIN 691 020, KOLLAM.

BY ADVS.SRI.GEORGE VARGHESE (MANACHIRACKEL)
SRI.P.R.MILTON

RESPONDENTS:

1. SPECIAL SALE OFFICER,
MAYYANAD R.C BANK, ASST. REGISTRAR GENERAL OFFICE,
KOLLAM 691 303
2. THE SECRETARY,
MAYYANAD R.C BANK, MAYYANAD , KOLLAM 691 303

R2 BY ADV. SRI.P.MARTIN JOSE
R2 BY ADV. SRI.A.JANI(KOLLAM)
R2 BY ADV. SRI.P.PRIJITH
R2 BY ADV. SRI.THOMAS P.KURUVILLA

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

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE REGISTRATION CARD ISSUED BY THE REGIONAL
CANCER CENTRE, THIRUVANANTHAPURAM.

EXHIBIT P2 TRUE COPY OF THE EXECUTION NOTICE ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER.

EXHIBIT P2(A) TRUE ENGLISH TRANSLATION OF THE EXECUTION NOTICE ISSUED
BY THE SECOND RESPONDENT TO THE PETITIONER.

EXHIBIT P3 TRUE COPY OF THE EXECUTION NOTICE ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER'S HUSBAND.

EXHIBIT P3(A) TRUE ENGLISH TRANSLATION COPY OF THE EXECUTION NOTICE
ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER'S HUSBAND.

EXHIBIT P4 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
RESPONDENTS' SALE OFFICER DATED 19-08-2015.

EXHIBIT P4(A) TRUE ENGLISH TRANSLATION OF THE REPRESENTATION
SUBMITTED BEFORE THE RESPONDENTS' SALE OFFICER DATED 19-08-2015.

RESPONDENTS' EXHIBITS: NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 27158 of 2015 (T)

Dated this the 11th day of November, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank, apart from perusing the record.

2. The petitioner, a borrower from the second respondent Bank, assailed Exts.P2 & P3 notice directing payment of ₹8,48,849/-.

3. The learned counsel for the petitioner has submitted that the petitioner, despite her best efforts, could not repay the loan amount owing to stringent financial conditions faced by her. Accordingly, the petitioner has sought the indulgence of this Court for a direction to the respondent Bank to receive from the petitioner the outstanding loan amount in instalments.

4. Before appreciating the submissions of the learned counsel for the second respondent Bank, I may have to observe that expansive as the jurisdiction of Article 226 of the Constitution of India is, I am afraid, it does not go to the extent of interdicting the contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for

instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realising the loan amounts through the process of invidious sale of the property, the learned counsel for the second respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in four monthly instalments.

In the facts and circumstances, essentially based on the concession made by the learned counsel for the respondent Bank, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan amount in four equal monthly instalments starting from 01.12.2015. Needless to observe that, if the petitioner fails to deposit the said amount within the stipulated time, the respondent Bank is at liberty to proceed further without recourse to this Court.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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