

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 9TH DAY OF OCTOBER 2015/17TH ASWINA, 1937

WP(C).No. 28633 of 2015 (D)

PETITIONER(S):

**RAJAN,
PANNAMBURAM VEETIL, PARAPPURAM P.O.,
KIZHAKKUM BHAGOM VILLAGE, ALUVA-683 593.**

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT(S):

- 1. LIC HOUSING FINANCE LTD.,
REPRESENTED BY ITS AUTHORISED OFFICER, 9TH FLOOR,
LIC BUILDING, M.G.ROAD, ERNAKULAM-682 011.**
- 2. PAUL MATHEW,
INCHAKKATTIL HOUSE, PIRAVOM VILLAGE, PIRAVOM P.O.,
ERNAKULAM-686 664.**

**R1 BY ADVS. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 28633 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1 : TRUE COPY OF THE AGREEMENT DTD.5.1.2015 EXECUTED BY THE
2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.28633 of 2015

Dated this the 9th day of October, 2015

JUDGMENT

The petitioner, who stated to have been an ownership in possession of 6.07 Ares of property together with building thereon in Kizhakkum Bhagom Village, subsequently executed a sale deed in respect of the property infavour of the 2nd respondent. It would appear that the 2nd respondent mortgaged the said property to the 1st respondent company for obtaining a loan from the said company. When there was a default in re-payment of the loan amounts, the 1st respondent company initiated proceedings under the SARFAESI Act and obtained possession of the property. The grievance of the petitioner in the writ petition is that he and his family were continuing to reside in the said property notwithstanding the sale deed executed infavour of the 2nd respondent. In the present proceedings initiated by the respondent bank, it is the petitioner and the family who are put to prejudice. He therefore prays for an opportunity to discharge the liability due to the respondent bank so as to save the property.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing Counsel appearing for the respondent bank.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I dispose the writ petition with the following directions:

- (i) The total outstanding amount, in respect of the loan advanced to the 2nd respondent as on today, is stated to be Rs.35,00,000/- (Rupees Thirty five lakhs). Accordingly, if the petitioner remits the aforesaid amount of ₹ 35,00,000/- in five equal and successive monthly installments commencing from 01.11.2015, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.
- (ii) It is made clear that if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.
- (iii) On the petitioner discharging the liability due to the respondent bank, the respondent bank shall put the petitioner back in possession of the secured asset forthwith.

A.K.JAYASANKARAN NAMBIAR
JUDGE