

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 30731 of 2015 (N)

PETITIONER(S):

**C. BALAN, AGED 45 YEARS,
S/O. C. NARAYANAN, CHAKKUMTHODIYIL HOUSE,
MELE PATTAMBI, KODALUR, PIN-679 306,
PALAKKAD DISTRICT.**

BY ADV. SRI.KISHOR B.

RESPONDENT(S):

- 1. AUTHORISED OFFICER, CATHOLIC SYRIAN BANK LTD.,
ZONAL I OFFICE, KOZHIKODE-673 004.**
- 2. BINEESH R. NAIR, PROPRIETOR,
MSSRS. KRISHNA COMMUNICATIONS, S/O.RAMAKRISHNAN,
AMNAMATHIL HOUSE, PATTITHARA P.O., ALOOR,
PALAKKAD, PIN-679 534.**

BY ADV. SRI.C.A.JOY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 30731 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF THE DEMAND LETTER DATED 1-1-2015 ISSUED BY PATTAMBI
BRANCH OF CATHOLIC SYRIAN BANK.**

**EXT.P2: TRUE COPY OF POSSESSION NOTICE DATED 21-7-2015 FROM CANARA
BANK.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.K.JAYASANKARAN NAMBIAR, J.

.....

W.P.(C).No.30731 of 2015

.....

Dated this the 19th day of October, 2015

J U D G M E N T

The petitioner, who stood as a guarantor to a loan advanced to the 2nd respondent by the 1st respondent bank is aggrieved by the steps taken by the respondent bank to recover the loan amounts from the property belonging to the petitioner which is offered as a secured asset for the loan. Ext.P2 is the possession notice issued by the respondents under the SARFAESI Act. It is stated that, the physical possession of the secured asset has also been taken by the respondents in October, 2015.

The total amount outstanding from the 2nd respondent to the respondent bank is approximately Rs.20 lakhs, as against a cash credit facility of Rs.18 lakhs that was extended to him. Taking note of the fact that, the petitioner, whose property was mortgaged as security for the loan, is now in the predicament of having to discharge the liability of the 2nd respondent so as to save his property, I dispose the writ petition with the following directions:

- i. If the petitioner pays an amount of

Rs.3 lakhs in three equal successive monthly instalments commencing from 01.11.2015, the respondents shall handover possession of the secured asset to the petitioner forthwith on receipt of the Rs.3 lakhs as directed above.

ii. The petitioner shall thereafter remit the balance outstanding amount of Rs.17 lakhs together with accrued interest and other expenses in 12 equal and successive monthly instalments commencing from 01.02.2015, as a condition for stay of recovery proceedings against his property.

(ii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/19.10.15

//true copy//

P.A.To Judge

