

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 31745 of 2015 (P)

PETITIONER:

**ABDUL KHADER,
S/O.M.ABDULLA, AGED 46 YEARS,
M.A.MANZIL, NEAR RAILWAY STATION,
MATTAMKUZHY ROAD, KUMBALA,
KASARGOD DISTRICT-671 321.**

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT:

**KERALA GRAMIN BANK,
KUMBALA BRANCH, KUMBALA,
KASARGOD DISTRICT - 671 321,
REPRESENTED BY ITS AUTHORISED OFFICER/
REGIONAL MANAGER.**

BY ADV. SRI.T.R.RAVI, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 31745 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. A TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT UNDER
SEC.13(2) SARFESI ACT DATED 2/7/2014.**
- EXT.P2. A TRUE COPY OF THE AWARD OF THE DISTRICT LEGAL SERVICES
AUTHORITY, KASARAGOD IN LA NO.742/2014 DATED 6/12/2014.**
- EXT.P3. A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE
RESPONDENT DATED 6/8/2015.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.31745 of 2015
.....
Dated this the 29th day of October, 2015

J U D G M E N T

The petitioner who had availed of a loan of Rs.10 lakhs from the respondent bank on 26.04.2013, on condition that the same would be repaid with interest at the rate of 14.5% per annum, is aggrieved by the steps taken by the respondent bank to sell the property having an extent of 1.09 acres in Sy.No.33/3A in Koipady village which was given as security for the loan transaction. The facts in the writ petition would disclose that by Ext.P2 award that was passed by the District Legal Services Authority, Kasargode, the liability of the petitioner to the respondent bank was limited to an amount of Rs.11,58,000/- which had to be paid within 6 months from the date of the award namely, 06.12.2014 and failing that the balance amount was to bear interest at the rate of 12% per annum from 06.12.2014 till the date of realisation. In the writ petition, the limited prayer of the petitioner, who admits that he is not in a position to discharge the liability to the respondent bank, is for a direction to the respondent bank to sell only such extent of the property as is required to meet the liability of the petitioner and not to sell the entire property by way of distress sale.

2. I have heard the learned counsel for the petitioner and the

learned Standing counsel for the respondent bank.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that, inasmuch as the petitioner has expressed his inability to discharge the liability due to the respondent bank, the steps taken by the respondent to realise the amounts due to him by sale of the property cannot be interdicted. I find force, however, in the contention of learned counsel for the petitioner that in the sale that is to be conducted by the respondent bank, only such extent of the property as is required to satisfy the amounts due to the respondent bank from the petitioner needs to be sold. Accordingly, I dispose the writ petition granting permission to the respondent bank to effect the sale of the property for realisation of dues from the petitioner but with a direction that the bank shall endeavour to sell only such portion of the property as is required for realisation of its dues bearing in mind that the petitioner requires the balance extent of land remaining after the sale proceedings.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE