

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

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

WP(C).No. 33034 of 2015 (D)

PETITIONERS :

- 1. SULAIKHA SADIKK, AGED 65 YEARS
W/O.LATRE SADIKK, NO.8/237, MAROTTIKKAL HOUSE,
THADIYAMBADU.P.O., VAZHATHOPPE CHERUTHONI
IDUKKI DISTRICT.**
- 2. RASEEBA SABU ABOOBACKER,
KOORTHATTIL, MARYKUNNU, CALICUT-673001.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS :

- 1. KOTAK MAHINDRA PRIME LTD.,
HAVING ITS REGISTERED OFFICE AT 36-38A
NARIMAN POINT, MUMBAI
AND HAVING ITS BRANCH OFFICE AT FOURTH FLOOR
THADIKKARAN CENTRE, PALARIVATTOM, KOCHI-682025
REPRESENTED BY ITS AUTHORIZED SIGNATORY, JOMET.K.J
DEPUTY MANAGER
ERNAKULAM OFFICE OF M/S.KOTAK MAHINDRA PRIME LTD.**
- 2. THE ARBITRATION TRIBUNAL,
(IN THE DISPUTE KOTAK MAHINDAR PRIME LTD., T4
EMPIRE BUILDING, OPP.CENTRAL POLICE STATION
NEAR HIGH COURT OF KERALA, ERNAKULAM - 682031**
- 3. THE SUB INSPECTOR OF POLICE,
IDUKKI POLICE STATION, IDUKKI DISTRICT.**

**R1 BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN**

R3 BY GOVERNMENT PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE INTERIM ORDER OF THE 2ND RESPONDENT
DATED 05.06.2014
- P2: TRUE COPY OF THE ARBITRATION NOTICE OF THE 2ND RESPONDENT
DATED 20.09.2014.
- P3: TRUE COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT
DATED 29.09.2015
- P4: TRUE STATEMENTS OF THE PAYMENTS.
- P5: TRUE INVENTORY DATED 22/10/2015.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.33034 of 2015

Dated this the 11th day of November, 2015

JUDGMENT

The first petitioner availed a vehicle loan from the first respondent. It appears that the first petitioner committed default in paying the EMI amounts in time, the first respondent initiated arbitration proceedings. The first respondent also has seized the vehicle pursuant to the order passed by the Arbitration Tribunal with the assistance of the third respondent police.

2. The petitioners case is that they have not been served with copy of the award. It is further submitted that they are prepared to pay the entire arrears of EMI.

3. Learned counsel for the second respondent would submit that the petitioners did not appear before the Arbitration Tribunal. It is further submitted that the writ petition is not maintainable. It is also submitted that the vehicle was not repossessed but it was surrendered by the first petitioner before the first respondent. Essentially, the issue in this writ petition is

arising out of the action initiated in the arbitration. If the petitioners have not been served with copy of the arbitration award, the second respondent is directed to serve a copy of the award to the writ petitioners within one week from the date of receipt of a copy of this judgment in the address shown in the writ petition or on the counsel appearing for the petitioners before this Court.

This Court is also of the view, the petitioners have a statutory remedy against the award and they are free to work out such remedy against the award. The petitioners are also at liberty to seek interim relief for custody of the vehicle before the Court where they can lay an application to challenge the arbitration award.

With that liberty, the writ petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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