



2025:KER:26590

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 26TH DAY OF MARCH 2025 / 5TH CHAITHRA, 1947

WP(C) NO. 12143 OF 2025

PETITIONER:

A.V. MEHABOOB,
AGED 55 YEARS
S/O. MOIDEEN KUNHI HAJI, A.V. HOUSE, KOYILANDY (P.O.),
KOZHIKODE (DIST.), PIN - 673305.

BY ADV K.DEEPA (PAYYANUR)

RESPONDENT:

THE AUTHORISED OFFICER, STATE BANK OF INDIA,
RETAIL ASSETS CENTRAL PROCESSING CENTRE, 1ST FLOOR,
STATE BANK BHAVAN, MANANCHIRA, NAGARAM AMSOM DESOM,
KOZHIKODE TALUK, KOZHIKODE, PIN - 673001.

SMT. S.LAKSHMY, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner has approached this Court challenging the proceedings initiated against the petitioner under the provisions of the SARFAESI Act to recover amounts due under credit facilities availed by the petitioner from the State Bank of India. According to the petitioner, Ext.P1 proceedings before the District Legal Services Authority, Kozhikode will show that the only claim made on the petitioner by the respondent Bank is a sum of Rs.6,75,092.44 together with future interest at the rate of 12% per annum. It is submitted that Ext.P1 was filed by the Bank in the National Lok Adalat held on 07.11.2024 and therefore the petitioner cannot be now be called upon to pay any amount over and above the sum mentioned in Ext.P1. It is submitted that notwithstanding the above, the Bank has issued a notice under Section 13(2) of the SARFAESI Act on 15.11.2024 claiming much higher amounts than what was indicated in Ext.P1. It is submitted that on 20.02.2025, the Bank issued a notice under sub-section (4) of Section 13 of the SARFAESI Act and has now initiated steps for taking physical possession of the secured assets pursuant to Ext.P3 order. It is submitted that the Advocate Commissioner appointed by the Chief Judicial Magistrate,



Kozhikode has issued Ext.P4 notice proposing to take physical possession of the secured asset on 29.03.2025 prompting the petitioner to approach this Court by filing the above writ petition.

2. The learned counsel appearing for the respondent Bank submits that the amount shown in Ext.P1 is a bonafide mistake. It is submitted that as on 23.03.2025, the total amount due from the petitioner is Rs.18,66,056/-. It is submitted that considering the fact that an amount of Rs.18,66,056/- is due from the petitioner as on 23.03.2025, the amount mentioned in Ext.P1 is an obvious mistake and that amount cannot be relied upon by the petitioner to contend that she is liable to pay only that amount and no other. It is submitted that notwithstanding the above, the Bank has no objection in considering Ext.P2 request for One Time Settlement.

Having heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent Bank, I am of the view that the petitioner has not made out any case for holding that the petitioner is liable to pay only the amounts mentioned in Ext.P1. It is no doubt true that Ext.P1 will indicate that a petition had been filed by the respondent Bank before the District Legal Services Authority at Kozhikode indicating the amount due



from the petitioner to be Rs.6,75,092.44. However when the Bank has a definite case before this Court that the said amount was a bonafide mistake and taking into consideration the fact that the outstanding amount due from the petitioner as on 23.03.2025 is Rs.18,66,056/- (as per statement of accounts), I have no option but to accept the stand of the Bank that the amount mentioned in Ext.P1 was a gross mistake. Therefore, the petitioner cannot be allowed to settle the liability by paying amount mentioned in Ext.P1. Since Ex.P2 application for One Time Settlement is pending before the respondent, this writ petition will stand disposed of directing that Ext.P2 shall be considered and disposed of by the competent authority of the respondent Bank immediately and at any rate within a period of ten days from the date of receipt of a certified copy of this judgment. Steps for taking physical possession of the secured asset shall stand adjourned till a decision is taken on Ext.P2.

The writ petition will stand disposed of as above.

**Sd/-
GOPINATH P.
JUDGE**

DK



APPENDIX OF WP(C) 12143/2025

PETITIONER EXHIBITS

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| Exhibit P-1 | TRUE COPY OF THE NOTICE DATED 21.10 2024 ISSUED TO THE PETITIONER REQUESTING THE AFOREMENTIONED ISMAIL K. T, TO ATTEND THE ADALAT AT LEGAL SERVICE AUTHORITY KOZHIKODE, DISTRICT COURT COMPLEX, KOZHIKODE. |
| Exhibit P-2 | TRUE COPY OF THE REPRESENTATION DATED 10.01.2025, ALONG WITH THE ACKNOWLEDGMENT CARD, SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT BANK. |
| Exhibit P-3 | TRUE COPY OF THE ORDER DATED 10.03.2025 IN CMP NO.661/2025 OF THE CHIEF JUDICIAL MAGISTRATE, KOZHIKODE. |
| Exhibit P-4 | TRUE COPY OF THE NOTICE DATED 21.03.2025 ISSUED TO THE PETITIONER BY THE ADVOCATE COMMISSIONER. |