

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 30TH JULY 2010 / 8TH SRAVANA 1932

WP(C).No. 22917 of 2010(L)

PETITIONER(S):

**C.K.RAJAGOPALAN, "KRISHNA KRIPA",
NEAR GOVT. TRAINING SCHOOL, PURAMTHODATH LANE,
PO- NADAKKUTHAZHA, KOZHIKODE DISTRICT.**

**BY ADVS. SRI.C.VATHSALAN,
SRI.K.RAKESH ROSHAN.**

RESPONDENT(S):

**1. HOUSING DEVELOPMENT FINANCE CORPORATION,
KOZHIKODE BRANCH, KANNUR ROAD, CALICUT,
REPRESENTED BY ITS MANAGER.**

**2. THE AUTHORISED OFFICER,
HDFC, HDFC HOUSE, P-B NO.1667, RAVIPURAM,
M.G.ROAD, COCHIN, PIN - 682 015.**

R1 & R2 BY ADV. SRI.K.K.CHANDRAN PILLAI, SC, HDFC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/07/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Kss

P.R.RAMACHANDRA MENON, J.

W.P.(C) No. 22917 OF 2010

Dated this the 30th day of July, 2010

J U D G M E N T

The case has got a long history. The petitioner availed a loan from the first respondent creating security interest over the property in question. But in view of the admitted default, steps under SARFAESI Act were initiated against the petitioner, which was subjected to challenge by approaching the DRT under Section 17. After considering the case projected by the petitioner before the DRT, coercive steps were intercepted on condition that the petitioner satisfied a portion of the liability. The case of the respondent bank is that the condition was not fully complied with and later, though the condition imposed by the DRT was complied, SA No.382 of 2009 itself happened to be dismissed for default. In the said circumstances, the petitioner filed an application for restoration, which was allowed; wherein some fresh condition was imposed by the DRT. Since the petitioner turned to be a defaulter in this regard as well, the interim stay was vacated, which is the subjected to challenge in this writ petition.

2. The facts and figures have been explained by the bank in a statement filed, asserting that the course pursued by the bank is in conformity with the statute and the same does not call for any interference. Learned counsel for the petitioner submits that the petitioner does not intend to press any of the contentions raised in the securitisation

application pending before the DRT and that the prayer of the petitioner is limited to enable the petitioner to wipe off the entire liability within a span of 'four months'.

3. The learned counsel for the bank submits that the request of the petitioner can be considered only subject to the condition that the petitioner undertakes that SA is not pressed any further and will take necessary steps to cause it to be withdrawn.

4. Since the SA is stated as not pressed, taking note of the particular facts and circumstances, the petitioner is permitted to wipe off the entire liability of Rs.9,03,412/- under the loan transaction within 'four months' as prayed for and undertaken by the petitioner. The recovery proceedings being pursued against the petitioner shall be kept in abeyance for the time being, on condition that the petitioner proves his bonafides by depositing a sum of Rs.One lakh within three weeks and withdraws the SA pending before the DRT forthwith.

The writ petition is disposed of as above.

P.R.RAMACHANDRA MENON
(JUDGE)

vps

