

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 31ST OCTOBER 2011 / 9TH KARTHIKA 1933

WP(C).No. 27908 of 2011(K)

CMP.5170/2010 of C.J.M.,TRIVANDRUM
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PETITIONER(S):

**1. J. BIVIN KUMAR, S/O. JESSAIAH,
J.B. HOUSE, CHARUMKUZHI, VELLARADA.P.O.,
THIRUVANANTHAPURAM.**

**2. P.A. SANDYA BOSE, W/O. J.BIVIN KUMAR,
J.B. HOUSE, CHARUMKUZHI, VELLARADA.P.O.,
THIRUVANANTHAPURAM.**

**BY ADV. SRI.D.KISHORE
SMT.MINI GOPINATH**

RESPONDENT(S):

**1. THE FEDERAL BANK LTD.,
REGIONAL OFFICE, FEDERAL TOWERS,
STATUE,THIRUVANANTHAPURAM.
REP. BY ITS CHIEF MANAGER-695001.**

**2. THE AUTHORIZED OFFICER(CHIEF MANAGER)
THE FEDERAL BANK LTD.,REGIONAL OFFICE,
FEDERAL TOWERS, STATUE,THIRUVANANTHAPURAM - 695001.**

**R1 BY ADV. SRI.A.ANTONY, SC.
SMT.LEELAMMA ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/10/2011, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

STU

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE ACCOUNT DETAILS ENTERED IN THE PASS BOOK.

**EXT.P2 : TRUE COPY OF THE PASS BOOK ENTRIES IN LOAN AMOUNT
NO.1325500005512.**

**EXT.P3 : TRUE COPY OF THE NOTICE WITH AFFIDAVIT AND PETITION IN
CMP 5170/10 ON THE FILE OF CHIEF JUDICIAL MAGISTRATE
COURT, THIRUVANANTHAPURAM.**

**EXT.P4 : TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER IN CMP
5170/10.**

**EXT.P5 : TRUE COPY OF THE ORDER DATED 20-7-2011 IN CMP 5170/10 OF
CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.**

**EXT.P6 : TRUE COPY OF THE NOTICE DATED 27-7-2011 ISSUED BY THE
ADVOCATE COMMISSIONER.**

**EXT.P7 : TRUE COPY OF THE ACCOUNT STATEMENT ISSUED BY THE BANK DTD
18/10/2011.**

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY/

P.A TO JUDGE.

STU

S. Siri Jagan, J.

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W.P(C) No. 27908 of 2011

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Dated this, the 31st day of October, 2011.

J U D G M E N T

The petitioners have availed of two loans from the respondents. The respondents have initiated proceedings under the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for recovery of the amounts due from the petitioners. The petitioners challenge the same. But the petitioners seek only regularization of the accounts and permission to continue to pay as per the loan agreement.

2. Counsel for the bank submits that there are two accounts, one is a loan account and the other one is a cash credit facility, which is not a loan account. He submits that if the petitioners pay the outstanding amounts to the cash credit facility, that account can be closed and the loan account can be regularised on payment of defaulted arrears.

3. Having heard both sides, I dispose of this writ petition with the following directions:

The petitioners shall pay the outstanding amounts due in the agricultural cash credit facility covered by Ext.P2 in 10 equal monthly instalments with effect from 1.12.2011. Every subsequent instalment shall be paid on the first working day of every succeeding month. In respect of the overdraft facility, if the petitioners pay off the outstanding amounts due in 3 equal instalments payable on 1.12.2011, 1.1.2012 and 1.2.2012 with the regular EMIs, the said account shall be regularised and the

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petitioners shall be allowed to operate the account as per the original agreement. If the petitioners comply with the above directions, further proceedings under the Act shall be kept in abeyance. However, if the petitioners commit default in complying with any of the above directions and fail to pay any one of the instalments on due dates, the respondents can continue proceedings as now initiated in respect of both the accounts, without having to issue any fresh notice or proceedings in that regard.

Sd/- S. Siri Jagan, Judge.

Tds/