

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 31ST DAY OF OCTOBER 2012/9TH KARTHIKA 1934

WP(C) .No. 22843 of 2012 (E)

CMP.5781/2012 of C.J.M. ,THRISSUR

PETITIONER(S) :

1. K.K.GOPI
S/O. KUMARAN, KOLLAMAN HOUSE, CHENGALLOOR VILLAGE
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.
2. SHYAMALA
W/O. K.K.GOPI, KOLAMAN HOUSE, CHENGALLOOR VILLAGE
MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

BY ADV. SRI.M.K.DILEEP KUMAR

RESPONDENT(S) :

1. THE AUTHORISED OFFICER,
THE FEDERAL BANK LTD., REGIONAL OFFICE
MISSION QUARTERS, THRISSUR
THRISSUR DISTRICT-680 001.
2. THE FEDERAL BANK LTD.
MANNAMPETTA BRANCH, REPRESENTED BY THE MANAGER
VARAKKARA POST, THRISSUR DISTRICT-680 325.

R1,R2 BY ADV. SRI.MOHAN JACOB GEORGE
R1,R2 BY ADV. SMT.P.V.PARVATHI
R1,R2 BY ADV. SMT.REENA THOMAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31-10-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

P1 : COPY OF THE NOTICE DTD.6.2.2009 ISSUED BY THE 2ND RESPONDENT TO THE 1ST PETITIONER.

P2 : COPY OF THE NOTICE DTD.6.2.2009 ISSUED BY THE 2ND RESPONDENT TO THE 2ND PETITIONER.

P3 : COPY OF THE POSSESSION NOTICE DTD.8.3.2010 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

P4 : COPY OF THE PLAINT IN OS NO.647/2010 FILED BY THE PETITIONERS BEFORE THE MUNSIFF'S COURT AT IRINJALAKUDA.

P5 : COPY OF THE WRITTEN STATEMENT FILED BY THE 2ND RESPONDENT IN PURSUANT TO THE EXT.P4.

P6 : COPY OF THE ORDER DTD.4.8.2011 IN OS NO.647/2010 OF THE MUNSIFF'S COURT, IRINJALAKUDA.

P7 : COPY OF THE NOTICE MEMO DTD.1.9.2012 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER.

//True Copy//

PA to Judge

Rp

ANTONY DOMINIC, J.
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W.P.(C) NO. 22843 OF 2012
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Dated this the 31st day of October, 2012

J U D G M E N T

Petitioners availed of a loan from the respondent Bank. Default was committed and SARFAESI proceedings were initiated. It was when Ext.P7 notice was issued by the Advocate Commissioner appointed by the Chief Judicial Magistrate Court, Trichur proposing to take over possession of the mortgaged assets, this writ petition was filed. Today when the matter was taken up, learned counsel for the petitioners informs that subsequent to the filing of the writ petition, possession of one of the items of the mortgaged property has already been taken over.

2. Going by the submissions made by the learned standing counsel for the Bank, the total liability due from the petitioners is more than ₹16.5 lakhs. The fact that liability is due to the Bank is not a matter of dispute and if that be so, petitioners being defaulters, Bank cannot be faulted for the coercive action that it has taken. At this stage, learned counsel for the petitioners seeks an opportunity to liquidate the liability by paying the entire

amount due.

3. Taking note of this submission, I direct that, if the petitioners pay 1/3rd of the total amount due within ten days from today, the property taken over will be returned to them. It is made clear that the balance liability shall be paid by them in 4 equal monthly instalments. The first instalment shall be paid on or before 30/11/2012 and the subsequent instalments shall be paid on or before the last working day of every succeeding month. It is made clear that in the event the petitioners commit any default, the Bank will be entitled to continue the recovery proceedings already initiated and I also record the undertaking of the petitioners that in the event of default, they will surrender the mortgaged assets to the respondents without any demur.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE

Rp