

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 28TH DAY OF NOVEMBER 2014/7TH AGRAHAYANA, 1936

WP(C).No. 31612 of 2014 (B)

PETITIONER :

**PRABHA T., AGED 39 YEARS,
W/O. AJI, THARAKKERIL HOUSE, PAYIPAD P.O.,
ALAPPUZHA**

BY ADV. SMT.S.L.SYLAJA

RESPONDENTS :

- 1. THE STATE BANK OF TRAVANCORE,
PAYIPAD BRANCH, REPRESENTED BY ITS BRANCH MANAGER,
PAYIPAD, HARIPAD, ALAPPUZHA - 688526.**
- 2. THE CHIEF MANAGER (AUTHORISED OFFICER),
STATE BANK OF TRAVANCORE, 1ST FLOOR,
PADMA BHAVAN BUILDING, OPP. K.S.R.T.C. BUS STAND,
MAVELIKARA P.O., PIN- 680101.**
- 3. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF S.C/ST STATE SECRETARIAT,
THIRUVANANTHAPURAM - 690102.**
- 4. THE DISTRICT DEVELOPMENT OFFICER
FOR SCHEDULED CASTE, ALAPPUZHA - 690102.**

**BY SRI.SANTHOSH MATHEW
BY SRI.SATHISH NINAN
R1 BY GOVERNMENT PLEADER SRI. P.V. LONACHAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-11-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 31612 of 2014 (B)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE COMMUNICATION ISSUED BY THE R4 TO THE R1 DT 16/12/2011
(ALONG WITH LOAN APPLICATION)
- P2: COPY OF THE NOTICE ISSUED TO THE PETITIONER UNDER SECTION 13(2)
OF THE ACT.
- P3: COPY OF THE POSSESSION NOTICE ISSUED TO THE PETITIONER
ORDER 29/9/2014.
- P4: COPY OF THE REPRESENTATION OF THE PETITIONER DT 5/11/2014 ISSUED
TO R1 & R2.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 31612 of 2014

Dated this the 28th day of November, 2014

JUDGMENT

The petitioner availed a loan of ₹2,79,000/- under the "scheme for self employment of Scheduled Caste" from the respondent Bank in the year 2012 creating security interest over the property in question. It is contended that, ignoring the benefit of subsidy, notice under Section 13(2) of the SARFAESI Act was issued to the petitioner demanding an amount of ₹3,35,937/- and hence the writ petition.

2. The learned counsel for the petitioner submits that, there occurred some default which was never wilful, but due to some unforeseen circumstances and that the petitioner does not dispute the liability to clear the due amount or the rights and liberties of the respondents in proceeding against the petitioner. The limited relief now pressed before this Court is to permit the petitioner to clear the 'overdue' amount, granting some breathing time in this regard and to have the loan account regularized.

3. The learned counsel appearing for the respondent Bank submits on instructions that, the subsidy amount of ₹93,000/- has been credited to the petitioner's account on 5.3.2014 and the total outstanding liability as on 26.11.2013 is nearly ₹2,87,558/- out of

which a sum of nearly ₹86,275/- is in respect of the overdue amount.

4. After hearing both the sides, particularly, in view of the limited relief sought for, this Court finds it fit and proper to permit the petitioner to clear the 'overdue' amount by way of two instalments, the first instalment of ₹40,000/- shall be effected within 'two weeks' and the balance overdue amount within one month thereafter. This shall be in addition to satisfaction of the regular EMIs as well. Subject to this, the loan account will stand regularized. The coercive proceedings being pursued against the petitioner shall be kept in abeyance for the time being. It is made clear that, if any default is committed with regard to repayment of the over due amount as above, or if any two consecutive defaults are made with regard to the regular EMIs, it will be open for the respondent Bank to proceed against the petitioner for realization of the entire amount in a lump, from the stage where it stands now. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

Writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-