

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 29TH DAY OF FEBRUARY 2016/10TH PHALGUNA, 1937

WA.No. 402 of 2016 () IN WP(C).6913/2016

AGAINST THE JUDGMENT IN WP(C) 6913/2016 DATED 24-02-2016

APPELLANT(S)/PETITIONER :-

BIJUMON

S/O. PAPPACHAN, KAVOORAZHIKATHU VEEDU

THEVALAPPURAM-A WARD, PAVITHRESWARAM P.O.

NEDUVATHOOR VILLAGE, KOTTARAKKARA, KOLLAM DISTRICT.

BY ADV. SRI.ANCHAL C.VIJAYAN

RESPONDENT(S)/RESPONDENT :-

1. THE AUTHORIZED OFFICER
CO-OPRATIVE URBAN BANK LTD, NO.1909
KOTTARAKKARA - 691 506.
2. CO-OPERATIVE URBAN BANK LTD
NO.1909, KOTTARAKKARA, KOLLAM DISTRICT - 691 506
REPRESENTED BY ITS MANAGER.

BY SMT.DEEPA.V, SC, KOTTARAKKARA CO.OP. URBAN BANK LTD

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 29-02-2016, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
A.M. SHAFFIQUE, J.**

W.A. No.402 of 2016

Dated this the 29th day of February 2016

J U D G M E N T

Ashok Bhushan, CJ.

Heard.

2. This writ appeal has been filed against the judgment dated 24.2.2016 in W.P.(C) No.6913 of 2016, by which, the learned Single Judge dismissed the writ petition filed by the appellant against the proceedings under the SARFAESI Act, 2002. The learned Single Judge noticed that the petitioner had earlier filed a writ petition challenging the same proceedings, which was disposed of permitting the petitioner to deposit the entire outstanding amount in ten equal monthly instalments. The said writ petition was disposed of on 7.8.2014. But, no payments were made in pursuance of the said judgment, except an amount of ₹2 lakhs. The learned Single Judge dismissed the subsequent writ petition giving rise to this writ appeal.

3. The learned counsel for the appellant submits that now, proceedings are being initiated for taking possession of the house. The learned Chief Judicial Magistrate had already passed an order under Sec.14(1) of the SARFAESI Act, 2002 on 8.12.2014.

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4. We do not find any error in the judgment of the learned Single Judge in dismissing the writ petition since the petitioner did not comply with the earlier directions issued permitting the petitioner to deposit the amount in instalments. The Bank has every right to proceed under the SARFAESI Act on the strength of the order passed by the Chief Judicial Magistrate under Sec.14(1) of the SARFAESI Act.

5. The learned counsel for the appellant lastly contended that the Bank is likely to sell the property for inappropriate amount. In such an event, it shall be open for the petitioner to bring buyers to the Bank and it is for the Bank on its satisfaction to fix any such price for sale.

Subject to these observations, this writ appeal is closed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE