

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

THURSDAY, THE 31ST DAY OF OCTOBER 2019 / 9TH KARTHIKA, 1941

WP(C).No.28563 OF 2019(U)

PETITIONER/S:

MUHAMMED ALI
AGED 57 YEARS
EENTHADAN POYIL HOUSE, UNNIKULAM P.O.,
KOZHIKODE - 673 574

BY ADV. SRI.T.D.SUSMITH KUMAR

RESPONDENT/S:

- 1 KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD
BALUSSERY BRANCH, BALUSSERY P.O., KOZHIKODE - 673
612, (REPRESENTED BY BRANCH MANAGER)
- 2 THE AUTHORISED OFFICER
M/S.KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
KALLAI ROAD, CHALAPPURAM, CALICUT - 673 002

SC JENCY MICHAEL FOR P.C. SASIDHARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.10.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of October 2019

Heard Adv.Susmith Kumar T.D for petitioner and Adv.Jency Michael holding for Adv.P.C. Sasidharan, the Standing Counsel for respondents.

2. Petitioner admits that as on 28.10.2019, the overdue amount payable to respondent-bank is Rs.23,67,038/- (Rupees Twenty three lakhs sixty seven thousand and thirty eight only). The petitioner is interested in first, establishing *bona fides* by depositing substantial amount towards the overdue amount as noted above and thereafter requests for installments for clearing the balance overdue amount. Adv.Susmith Kumar T.D, requests ten installments to clear the total overdue amount.

3. Adv.Jency Michael states that after taking note of totality of the circumstances, and also as an exceptional case,

the respondent-bank is prepared to accept the request of petitioner for installments, subject to petitioner depositing Rs.5,00,000/- within four weeks from today and the balance overdue amount i.e., (Rs.23,67,038/- (-) 5,00,000/-) is paid in five equal monthly installments.

After taking note of the submission of Adv.Jency Micheal and total amount payable by the petitioner by exercising little discretion, I am satisfied with the consent of counsel appearing for the respondents, the writ petition can be disposed of by this judgment.

- a) Petitioner deposits Rs.5,00,000/- (Rupees Five lakhs only) within four weeks from today. For the balance overdue amount, i.e., (Rs.23,67,038/- (-) 5,00,000/-), the petitioner is granted seven equal monthly installments. The 1st installment is payable on or before 01.12.2019.
- b) Petitioner, if commits two consecutive defaults, the

respondent-bank is free to proceed with the recovery.

The petitioner, if continues to comply with the installments granted by this Court, the recovery proceedings for the subject amount is deferred for a period of eight months from today.

Sd/-

S.V.BHATTI

JUDGE

JS

APPENDIX

PETITIONER'S/S EXHIBITS:

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|------------|---|
| EXHIBIT P1 | THE TRUE COPY OF THE POSSESSION NOTICE
OF IMMOVABLE PROPERTIES DATED
28.02.2018 ISSUED BY THE AUTHORIZED
OFFICER, THE 2ND RESPONDENT |
| EXHIBIT P2 | THE TRUE COPY OF THE NOTICE OF PUBLIC
NOTICE FOR SALE / AUCTION OF IMMOVABLE
PROPERTIES DATED 18-05-2018 ISSUED BY
THE AUTHORIZED OFFICER, THE 2ND
RESPONDENT |