

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 29TH DAY OF DECEMBER 2020 / 8TH POUSHA, 1942

WP(C).No.29005 OF 2020(A)

PETITIONER:

M/s.MARIKAR ENGINEERS PRIVATE LTD.,
REGD OFFICE , MARIKAR BUILDINGS, M.G ROAD,
THIRUVANANTHAPURAM-695 001, REPRESENTED BY ITS
AUTHORIZED SIGNATORY-AMUL SAM VARGHESE,

BY ADV. SRI.S.SUJIN

RESPONDENTS:

- 1 THE GENERAL MANAGER, CANARA BANK
CANARA BANK, CIRCLE OFFICE,
THIRUVANANTHAPURAM-695 001
- 2 THE CHIEF MANAGER,
CANARA BANK, CIRCLE OFFICE,
THIRUVANANTHAPURAM-695 001
- 3 THE ASSISTANT GENERAL MANAGER,
CANARA BANK, PUTHENCHANTHA, DEVASWOM BOARD BUILDINGS,
THIRUVANANTHAPURAM-695 001
- 4 CANARA BANK,
REPRESENTED BY THE CHIEF MANAGER, CANARA BANK,
CIRCLE OFFICE, THIRUVANANTHAPURAM-695 001

STANDING COUNSEL- SRI. P.PRATHEESH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Petitioner is a company incorporated under the Indian Companies Act, 1956, engaged in the sale of vehicles manufactured by various companies. Admittedly petitioner has availed a loan from the Canara Bank, Thiruvananthapuram. Amounts are fallen due and the bank initiated action as per the provisions of the SARFAESI Act. According to the petitioner, bank has calculated penal interest without taking into account the directions given by the Apex Court in its judgments.

2. Anyhow admittedly amounts are due from the petitioner and the loan period is also over. Learned Standing Counsel for Bank submitted that as on 22.12.2020, an amount of Rs.9,67,64,620/- is due from the petitioner towards principal, interest and penal interest. Anyhow it is submitted that, if an application is submitted for One Time Settlement, it will be considered by the Bank. Learned senior counsel for petitioner submitted that petitioner is prepared to pay an amount of Rs.5 Crores to the Canara Bank.

3. In that view of the matter, after hearing learned Senior Counsel for petitioner and learned Standing Counsel for bank, this writ petition is disposed of directing the petitioner to pay an amount of Rs.5 Crores within one month from the date of receipt of a copy of this judgment, along with an application for One Time Settlement of the loan account. If any such application is

received, and the amount as above is paid, the application shall be considered by the competent among the respondents, at the earliest, at any rate within one month thereafter. However, I make it clear that, if the petitioner fails to comply with the directions contained above, the Bank will be at liberty to proceed in accordance with law and recover the amount in lump.

sd/-

SHAJI P.CHALY

JUDGE

APPENDIX**PETITIONER'S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF THE LETTER DATED 16.12.2017 ISSUED BY THE RESPONDENT
EXHIBIT P2	TRUE COPY OF THE LETTER DATED 26.12.2017 SENT BY THE PETITIONER TO THE BANK
EXHIBIT P3	TRUE COPY OF THE LAWYER NOTICE DATED 5.6.2018 SENT BY THE BANK
EXHIBIT P4	TRUE COPY OF THE LETTER DATED 25.3.2019 TO THE PETITIONER.
EXHIBIT P5	TRUE COPY OF THE REPRESENTATION DATED 6.12.2019 SUBMITTED BY THE PETITIONER BEFORE THE BANK
EXHIBIT P6	TRUE COPY OF THE LETTER DATED 4.3.2020 ISSUED BY THE BANK
EXHIBIT P7	TRUE COPY OF THE REQUEST DATED 10.3.2020 OF THE PETITIONER TO THE BANK
EXHIBIT P8	TRUE COPY OF THE STATEMENT OF BANK ACCOUNTANT
EXHIBIT P9	TRUE COPY OF THE APPLICATION OA 419/2020 FILED U/S.19 OF SARFAESI ACT
EXHIBIT P10	TRUE COPY OF THE NOTICE DATED 3.12.2020 U/S 13(4) OF THE SARFAESI ACT