

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 3RD DAY OF FEBRUARY 2014/14TH MAGHA, 1935

WP(C).No. 2572 of 2014 (V)

PETITIONER(S):

**ANSON ANTONY,AGED 32 YEARS,
S/O.ANTONY, PROPRIETOR OF M/S.STAR FISHERIES,
ARACKAL HOUSE, MUNAMBAM BEACH, PALLIPORT P.O.,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.K.S.RAJESH
SRI.M.SHAJU PURUSHOTHAMAN**

RESPONDENT(S):

- 1. THE STATE BANK OF INDIA,
CHERAI BRANCH P.O., CHERAI, PIN-683 514,
REPRESENTED BY ITS BRANCH MANAGER.**
- 2. THE AUTHORISED OFFICER/CHIEF MANAGER,
THE STATE BANK OF INDIA, RASMECCC, ALUVA,
ERNAKULAM DISTRICT-683 101.**

R1 & R2 BY ADV. SRI.S.EASWARAN,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-02-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Kss

WPC.NO.2572/2014 (V)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1: COPY OF THE POSSESSION NOTICE DTD. 27/09/2013 ISSUED
BY THE 2ND RESPONDENT TO THE PETITIONER.**

**(IA NO.1517/2014) - COPY OF THE POSSESSION NOTICE DTD. 10/09/2013
ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

EXT.P2: COPY OF THE JUDGMENT DTD. 5/11/2013 IN WPC.NO.27065/2013.

**EXT.P3: COPY OF PLP 622/2013 DTD. 8/11/2013 FILED BY THE 2ND
RESPONDENT.**

RESPONDENT'S EXHIBITS: N I L

/TRUE COPY/

PA.TO JUDGE

Kss

P.R. RAMACHANDRA MENON, J.

W.P.C. No.2572 OF 2014

Dated this the 3rd day of February, 2014.

JUDGMENT

The petitioner availed a cash credit facility to the tune of Rs.10,00,000/- (Rupees Ten lakh only) from the 1st respondent Bank. Since the repayment could not be effected as scheduled, the Bank proceeded with the steps under the SARFAESI Act.

2. The petitioner's case is that, he met with two major accidents and incurred quite a lot of expenditure, which led to the default. It is also pointed out that, the petitioner had approached this Court earlier by filing WP(C) No.27065 of 2013, which was disposed of as per Ext.P2 judgment dated 05.11.2013, enabling the petitioner to file a representation before the Bank and to have the matter finalised accordingly, so as to have the redressal of the grievance. Immediately thereafter, the Bank approached the Kerala State Legal Service Authority as borne by Ext.P3 proceedings, followed by the coercive steps, leading to taking over of physical possession of the property from the petitioner. It is stated that the petitioner is ready and willing to satisfy a sum of Rs.5,00,000/- (Rupees Five lakh only) immediately and seeks

for indulgence of this Court so as to cause the property to be restored and spared from further proceedings, granting the benefit of installments.

3. The learned counsel appearing for the Bank submits on instructions that, inspite of the specific directions given by this Court as per Ext.P2 judgment to deposit a sum of Rupees Three lakhs, it was not complied with and it was in the said circumstance, that the respondent Bank was compelled to prefer Ext.P3 proceedings before the Kerala Legal Services Authority. Despite serving notice, the petitioner did not turn up before the said authority and this made the respondent Bank to proceed with further steps leading to taking over of physical possession of the property, to be followed by further steps.

4. The learned counsel for the petitioner submits that the default was only because of the accident as mentioned above and such other consequential turn of events and that it was never wilful. It is stated that the petitioner is ready to satisfy the entire liability, for which some breathing time is sought for.

5. After hearing both the sides, the writ petition is disposed of, directing the petitioner to satisfy a sum of ` 5 Lakhs within

'two' weeks and the balance amount shall be satisfied by way of 'six' equal monthly installments, the first of it shall be effected on or before the 15th of March, 2014; to be followed by similar installments to be effected on or before the 10th of the succeeding months. Subject to this, the recovery proceedings shall be kept in abeyance for the time being.

6. On satisfying the aforesaid sum of Rupees Five lakhs within two weeks and the first installment to be satisfied on or before 15.03.2014, the physical possession of the property shall be restored to the petitioner. If any default is committed by the petitioner in satisfying the installments as above, the benefit granted as per this verdict will stand automatically withdrawn, and it is open for the respondent Bank to proceed with the steps for realisation of the entire amount in a lump, from the stage where it stands now.

The writ petition is disposed of.

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

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