

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

TUESDAY, THE 16TH DAY OF OCTOBER 2012/24TH ASWINA 1934

WP(C).No. 22297 of 2012 (J)

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CMP.2529/2012 of C.J.M.PALAKKAD

PETITIONER(S) :

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1. SUMESH K., AGED 34 YEARS  
S/O. LATE SUKUMARAN, KOTTAYIL HOUSE  
SANKARAMANGALAM POST, PATTAMBI, OTTAPALAM TALUK.
2. SUSEELA K.  
W/O. LATE SUKUMARAN, KOTTAYIL HOUSE  
SANKARAMANGALAM POST, PATTAMBI, OTTAPALAM TALUK.

BY ADV. SRI.R.SREEHARI

RESPONDENT(S) :

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1. THE FEDERAL BANK LIMITED  
PATTAMBI BRANCH, PALAKKAD ROAD, PATTAMBI  
REPRESENTED BY ITS BRANCH MANAGER, PIN-679303.
2. THE AUTHORISED OFFICER & CHIEF MANAGER  
THE FEDERAL BANK LIMITED, PATTAMBI-679303.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
16-10-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.22297/12

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1- PHOTOCOPY OF THE STATEMENT OF ACCOUNTS IN RESPECT OF THE LOAN TRANSACTION WITH THE 1ST RESPONDENT BANK.

EXHIBIT P2- PHOTOCOPY OF THE POSSESSION NOTICE DATED 12-03-2012 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P3- PHOTOCOPY OF THE NOTICE SENT TO THE 2ND PETITIONER BY THE 1ST RESPONDENT BANK DATED 02-07-2012.

EXHIBIT P4- PHOTOCOPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER IN TERMS OF THE ORDER PASSED IN CMP 2529/2012 OF CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD.

//True Copy//

PA to Judge

Rp

**ANTONY DOMINIC, J.**  
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**W.P.(C) NO. 22297 OF 2012**  
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**Dated this the 16<sup>th</sup> day of October, 2012**

**J U D G M E N T**

A housing loan availed of by the petitioners from the 1<sup>st</sup> respondent Bank is in default. As a result, SARFAESI proceedings were initiated and finally Ext.P2 possession notice was issued. It was at that stage this writ petition has been filed with a prayer that the petitioners be allowed to clear the defaulted dues and also for a direction to get the loans regularised. In this writ petition, this Court by order dated 26/9/12 granted stay of further proceedings pursuant to Ext.P2 possession notice and Ext.P4 notice issued by the Advocate commissioner subject to the petitioners remitting ₹1,00,000/- and according to the counsel, this order has been complied with.

2. Although notice has been issued and has been served on the respondents, there is no appearance on their behalf. In such circumstances and also taking note of the fact that the petitioners have already complied with the interim order passed by this Court, I dispose of this writ petition with the following directions:-

(1) That ₹1,00,000/- paid by the petitioners shall be adjusted towards the defaulted instalments due from them.

(2) That the balance amount due towards the defaulted instalments shall be paid by the petitioner within one month from today.

(3) Subject to such payment, coercive action will be deferred and if payments are made as above, the loan in question will also be regularised and the petitioners will be permitted to pay the balance liability in terms of the loan agreement with the Bank.

(4) Petitioners will produce a copy of this judgment along with a copy of the writ petition before the 1<sup>st</sup> respondent for compliance.

**ANTONY DOMINIC, JUDGE**

Rp