

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

THURSDAY, THE 22<sup>ND</sup> DAY OF DECEMBER 2022 / 1ST POUSHA, 1944

WP(C) NO. 41095 OF 2022

**PETITIONER:**

RETHI.K.K,  
AGED 71 YEARS,  
W/O.KUNJAPPAN, 47/224, KADAKSHAM, KARSHAKA ROAD,  
VADUTHALA.S.O, VADUTHALA, ERNAKULAM - 682 023.

BY ADVS.  
SREEJITH S.NAIR  
BINCY JOSE  
ANAND V. KUMAR

**RESPONDENTS:**

- 1 CITY UNION BANK LTD,  
REGIONAL OFFICE AT DOOR NO.34/2284A, NH-47, EDAPPALLY  
SOUTH, MAMANGALAM, PALARIVATTOM, ERNAKULAM,  
KERALA - 682 025, REPRESENTED THROUGH ITS AUTHORISED  
OFFICER.
- 2 AUTHORISED OFFICER,  
CITY UNION BANK LTD, REGIONAL OFFICE AT DOOR  
NO.34/2284A, NH-47, EDAPPALLY SOUTH, MAMANGALAM,  
PALARIVATTOM, ERNAKULAM, KERALA - 682 025.
- 3 RAMESH.P.K,  
AGED 50 YEARS,  
S/O.T.K.KUNJAPPAN, NO.6 KADAKSHAM, KARSHAKA ROAD,  
VADUTHALA.S.O, VADUTHALA, ERNAKULAM - 682 023.

ADV. PHILIP T VARGHESE (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
22.12.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

The petitioner faces proceedings under the SARFAESI Act to recover amounts due under several credit facilities availed by her son and other relatives. The property belonging to the petitioner has been mortgaged for securing the debt. It is the case of the petitioner that the petitioner has never mortgaged her property. It is submitted that the petitioner's son took away the title deeds of the property and created the mortgage without the knowledge of the petitioner. It is submitted that the son of the petitioner is not taking care of the petitioner and her husband and the petitioner is now faced with proceedings under the SARFAESI Act. The learned counsel for the petitioner also states that the petitioner is willing to redeem the mortgage by paying the market value of the property, which is subject matter of the mortgage. It is submitted that the petitioner has already filed a request for the same.

2. The learned counsel appearing for the respondent Bank submits that the request made by the petitioner is on record as Ext.R1 along with the counter affidavit filed by the respondent Bank. It is submitted that the Bank has no objection in considering the said request. It is submitted that the

proceedings are at the stage of notice under sub-section (4) of Section 13 and no steps have been taken to obtain physical possession of the property.

Having regard to the submissions now made by the learned counsel for the petitioner and the learned counsel appearing for the respondent Bank, this writ petition will stand disposed of directing that Ext.R1 request made by the petitioner shall be considered by the competent authority of the respondent Bank and any decision thereon shall be communicated to the petitioner within a short time. Till such time as a decision is taken on the request made by the petitioner, further proceedings against the property of the petitioner under the SARFAESI Act shall remain suspended. The decision shall be taken within the outer limit of one month from today. All legal contentions taken by the petitioner are left open.

Sd/-  
**GOPINATH P.**  
**JUDGE**

DK

**APPENDIX OF WP(C) 41095/2022**

PETITIONER EXHIBITS

Exhibit-P1	THE TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR, DATED 09.06.2022.
Exhibit-P2	THE TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE STATION HOUSE OFFICER, DATED 28.6.2022.
Exhibit-P3	A TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE RDO, FORT KOCHI.
Exhibit-P4	A TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF RDO, FORT KOCHI.
Exhibit-P5	A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT, DATED 09.06.2022.
Exhibit-P6	A TRUE COPY OF THE NOTICE DATED 13.09.2022 ISSUED UNDER SECTION 13(2) OF SARFAESI ACT.
Exhibit-P7	A TRUE COPY OF THE REPLY DATED 08.11.2022 ISSUED TO THE 1ST RESPONDENT.
Exhibit-P8	A TRUE COPY OF THE NOTICE DATED 30.11.2022 ISSUED UNDER SECTION 13(4) OF SARFAESI ACT.