



2025:KER:5626

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

THURSDAY, THE 23<sup>RD</sup> DAY OF JANUARY 2025 / 3RD MAGHA, 1946

WP(C) NO. 33723 OF 2024

**PETITIONERS:**

- 1 NIYAS A.P  
AGED 43 YEARS  
S/O.ABDUL RAHIMAN, PULIYAKKOT, AANYAMKUNNU,  
KUMARANELLUR, KOZHIKODE DISTRICT, PIN – 673 602.
- 2 IFRATH RAYIZA  
AGED 36 YEARS  
W/O.NIYAS, PULIYAKKOT, AANYAMKUNNU, KUMARANELLUR,  
KOZHIKODE DISTRICT, PIN – 673 602.

BY ADVS.

ARJUN RAGHAVAN  
SHARAN SHAHIER

**RESPONDENTS:**

- 1 CALICUT NORTH SERVICE CO-OPERATIVE BANK LTD. NO.LL 37  
REPRESENTED BY ITS SECRETARY, KARUVISSERY,  
KOZHIKODE DISTRICT., PIN - 673010
- 2 THE ARBITRATOR/SPECIAL SALE OFFICER  
MAVOOR SCB GROUP, OFFICE OF THE ASSISTANT REGISTRAR OF  
CO-OPERATIVE SOCIETIES (GENERAL), KOZHIKODE-PIN,  
PIN – 673 020.
- 3 THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)  
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES



(GENERAL), KOZHIKODE, KOZHIKODE DISTRICT, PIN – 673 020.

- 4 THE SPECIAL SALE OFFICER, CALICUT NORTH SCB GROUP  
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES  
(GENERAL), SAHAKARANA BAHVAN, PUTHIYARA, KOZHIKODE,  
KOZHIKODE DISTRICT, PIN - 673004

BY ADVS.

P.P.JACOB, STANDING COUNSEL

MARIYAM JACOB

RESMI THOMAS, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
23.01.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



## JUDGMENT

The petitioners are husband and wife. They had availed two credit facilities from the 1<sup>st</sup> respondent Society to the tune of Rs.15,00,000/- each (total Rs.30 Lakhs) on 12.04.2019. The loan term was 10 years. The credit facilities were availed after creating equitable mortgage over their property. The petitioners defaulted repayment and arbitration cases were filed by the Society. Exts.P1 and P2 are the *ex-parte* Awards. The petitioners filed Exts.P3 and P4 applications to set aside the *ex-parte* Awards. During the pendency of Exts.P3 and P4, execution proceedings were initiated by the Society. Exts.P5 and P6 are the notices issued to the petitioners informing that their property will be measured



and sold in auction. Accordingly, the petitioners have filed this writ petition for a direction to the 2<sup>nd</sup> respondent to consider and pass orders on Exts.P3 and P4 applications and to keep in abeyance all proceedings pursuant to Exts.P1 and P2 Awards.

2. This Court, by order dated 26.09.2024, stayed further proceedings pursuant to Exts.P5 and P6 on condition that the petitioners remit an amount of Rs.2,00,000/-within three weeks.

3. It is submitted by the learned Counsel for the petitioners that the petitioners have complied with the order dated 26.09.2024.

4. The learned Counsel for the Society submits that, as on 23.01.2025, an amount of Rs.35,55,207/- is



overdue in the loan accounts of the petitioners and they can be permitted to pay the amount in 10 equal monthly instalments.

5. The learned Counsel for the petitioners submits that the petitioners may be permitted to pay the said amount in 18 equal monthly instalments.

6. Accordingly, this writ petition is disposed of with the following directions:-

- a) The petitioners shall pay the overdue amount of Rs.35,55,207/-(Rupees Thirty five lakhs fifty five thousand two hundred and seven only) along with accrued interest and applicable charges in 18 equal monthly instalments



commencing from 01.03.2025. The petitioners shall also pay the regular EMI's.

- b) If the petitioners default payment of any of the aforesaid instalments, it will be open to the respondents to proceed against them in accordance with law.
- c) To enable the petitioners to pay the amount in instalments as aforesaid, all coercive proceedings against the petitioners shall stand deferred.

Sd/-

**MURALI PURUSHOTHAMAN**  
**JUDGE**

SRJ



**APPENDIX OF WP(C) 33723/2024**

**PETITIONER'S EXHIBITS**

<b>EXHIBIT-P1</b>	<b>A TRUE COPY OF AWARD DATED 11-04-2022 IN ARC NO.827 OF 2020 ISSUED BY THE 2ND RESPONDENT.</b>
<b>EXHIBIT-P2</b>	<b>A TRUE COPY OF AWARD DATED 11-04-2022 IN ARC NO.1071 OF 2020 ISSUED BY THE 2ND RESPONDENT.</b>
<b>EXHIBIT-P3</b>	<b>A TRUE COPY OF APPLICATION DATED 10-06-2022 FILED BY PETITIONERS IN ARC NO.827 OF 2020.</b>
<b>EXHIBIT-P4</b>	<b>A TRUE COPY OF APPLICATION DATED 10-06-2022 FILED BY PETITIONERS IN ARC NO.1071 OF 2020.</b>
<b>EXHIBIT-P5</b>	<b>A TRUE COPY OF THE INTIMATION DATED 06-09-2024 ISSUED BY THE 4TH RESPONDENT TO THE 1ST PETITIONER.</b>
<b>EXHIBIT-P6</b>	<b>A TRUE COPY OF THE INTIMATION DATED 06-09-2024 ISSUED BY THE 4TH RESPONDENT TO THE 2ND PETITIONER.</b>
<b>EXHIBIT-P7</b>	<b>A TRUE COPY OF THE JUDGEMENT DATED 29-01-2020 IN WP(C) NO.2455 OF 2020.</b>
<b>EXHIBIT-P8</b>	<b>A TRUE COPY OF THE JUDGEMENT DATED 06-01-2020 IN WP(C) NO.35703 OF 2019 AND CONNECTED MATTERS.</b>