

Sumathi @ Ammini Vs. the Authorised Officer, Canara Bank, Thodupuzha, Idukki Dist

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Court : Kerala

Decided On : Feb-04-2013

Judge : Honourable Mr.Justice Antony Dominic

Appellant : Sumathi @ Ammini

Respondent : The Authorised Officer, Canara Bank, Thodupuzha, Idukki Dist

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ANTONY DOMINIC MONDAY, THE 4TH DAY OF FEBRUARY 2013 15TH MAGHA 193 WP(C).No. 3276 of 2013 (H) ----- PETITIONER: ----- SUMATHI @ AMMINI, AGED 7 YEARS, W/O.VASUDEVAN,POOVATHUKUNNEL, ARIKKUZHA, THODUPUZHA,IDUKKI DISTRICT. BY ADVS.SRI.M.B.SANDEEP, SMT.R.PRIYA, SRI.V.VISAL AJAYAN. RESPONDENT: ----- THE AUTHORISED OFFICER, CANARA BANK,PANCHAJAM COMPLEX,TEMPLE ROAD BYE PASS ROAD,THUDPUZHA,IDUKKI DISTRICT, PIN

584. BY ADV. SRI.P.P.JOYI, S.C. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-02-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C). NO.3276/2013-H: APPENDIX PETITIONER'S EXHIBITS: EXT.P.1: COPY OF THE POSSESSION NOTICE U/S.

13 (4) OF THE SARAFESI ACT ISSUED BY THE RESPONDENT. EXT.P.2: COPY OF THE RELEVANT PAGE FROM THE RATION CARD OF THE PETITIONER. RESPONDENT'S EXHIBITS: NIL. //TRUE COPY// P.A. TO JUDGE Prv. ANTONY DOMINIC, J W.P.(C).3276/2013 Dated this the 4th day of February, 2013 JUDGMENT Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent Bank.

2. Petitioner challenges the SARFAESI proceedings. From the submissions made by both sides, it appears that the petitioner is a guarantor for a Cash Credit facility availed of in 2002 and a term loan availed of by her daughter in 2009. Default was committed in both the liabilities. Therefore SARFAESI proceedings were initiated by the Bank and finally Ext.P1 possession notice was issued. According to the counsel for the respondent, symbolic possession was also taken over. It is at that stage this writ petition is filed and the prayer made is for an instalment facility.

3. Having regard to the fact that the petitioner, being a guarantor, is also a defaulter, Bank was fully justified in having initiated the coercive action. W.P.(C).3276/1

4. Be that as it may, neither the liability nor the quantum is in dispute and all that is sought for is an instalment facility. Taking note of the request made, I direct that the petitioner shall be permitted to pay the amounts due to the Bank in ten equal monthly instalments. First instalment shall be paid on or before 25.2.2013 and the subsequent instalments shall be paid on or before 25th of every succeeding month. Subject to payment as above, coercive action will be deferred and in case of default. Bank will be free to continue the recovery action already initiated. Writ petition is disposed of as above. Sd/- ANTONY DOMINIC, JUDGE mrcs /true copy/ sd/- P.A. To Judge

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