

**Moly Vs. State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1129706](http://sooperkanoon.com/1129706)

**Court :** Kerala

**Decided On :** Feb-18-2014

**Judge :** Honourable Mr.Justice P.R.Ramachandra Menon

**Appellant :** Moly

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON TUESDAY, THE 18<sup>TH</sup> DAY OF FEBRUARY 2014 29<sup>TH</sup> MAGHA, 1935 WP(C).No. 4325 of 2014 (M) ----- PETITIONER(S): ----- MOLLY, WIFE OF SATHYARAJAN, KUNNUMEL VEEDU, VALIYATHALA MACHEL P.O., THIRUVANANTHAPURAM. BY ADVS.SMT.K.P.SANTHI SMT.BEENA JOHN SRI.R.JAYAKRISHNAN (MUTHUKULAM) SMT.K.VINAYA RESPONDENT(S): ----- 1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, CO-OPERATIVE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695001.

2. THE KERALA STATE CO-OPERATIVE BANK LIMITED, KARAMANA BRANCH, REPRESENTED BY ITS AUTHORISED OFFICER. R1 BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ R2 BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BANK LTD. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 1802-2014, THE

COURT ON THE SAME DAY DELIVERED THE FOLLOWING: PJ WP(C).No. 4325 of 2014 (M) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- P1: COPY OF THE SALE NOTICE DATED 21.11.2014 ISSUED BY THE 2D RESPONDENT. RESPONDENT(S)' EXHIBITS ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ P.R. RAMACHANDRA MENON, J.

..... W.P.(C)No. 4325  
OF 2014..... Dated this the 18th  
February, 2014

## **JUDGMENT**

The petitioner had availed a housing loan of Rs. 3 lakhs from the respondent Bank in the year 2008, creating security interest over the property in question. By virtue of the default on the part of the petitioner, the Bank proceeded with the steps under the SARFAESI Act, which is sought to be intercepted in this writ petition.

2. The learned Counsel for the petitioner submits that the default occurred was not because of any wilful laches or deliberate negligence, but because of some unforeseen circumstances. Despite all the adverse circumstances, the learned Counsel for the petitioner submits that the petitioner is ready and willing to clear the entire defaulted arrears, so as to have the loan account regularised and that she will not commit any default at all.

3. The learned Counsel for the respondent Bank submits, on the basis of the instructions received that, as on 15.02.2014, a sum of Rs.1,75,100/-, is due towards the defaulted E.M.Is and W.P.(C)No. 4325 OF 2014 the petitioner will have to clear the said amount, if at all, the housing loan is to be regularised.

4. Considering the particular facts and circumstances, this Court finds it fit and proper to give one more opportunity to the petitioner to save her property, particularly in view of the fact that the petitioner belongs to a lower strata of the Society.

5. In the said circumstances, the petitioner is directed to clear the entire overdue amount by way of '4' equal monthly installments, the first of which shall be effected on or before 10.03.2014, to be followed by similar three more installments to be effected on or before the 10th of the succeeding months. This will be in addition to the liability of the petitioner to remit the regular monthly installments. Subject to the above, the revenue recovery proceedings now stated as being pursued against the petitioner and her property will be kept in abeyance. It is made clear that if any default is committed by the petitioner in remitting any of the four installments towards the 'overdue amount', as above or if any two consecutive defaults are made in respect of the regular monthly installments, the respondent bank will be at liberty to W.P.(C)No. 4325 OF20143 proceed with coercive steps from the stage where it stands now for realisation of the amount in a lump. The Writ Petition is disposed of as above. P.R.RAMACHANDRA MENON JUDGE Ik

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