



WP(C)No. 32140 OF 2024

2024:KER:89789

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE D. K. SINGH

TUESDAY, THE 26TH DAY OF NOVEMBER 2024 / 5TH AGRAHAYANA,

1946

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PETITIONER:

**RAFEEL MALIYEKKAL,
AGED 49 YEARS
S/O, KUNHIKOYA, MALIYEKKAL HOUSE, THAVALAKKULAM
ROAD, NADUVATTAM, NORTH BEYPORE, KOZHIKODE,
PIN - 673 015.**

BY ADV K.M.FIROZ

RESPONDENT:

**THE FEDERAL BANK LTD,
CHERUVANNOOR BRANCH, REP. AUTHORISED OFFICER,
FIRST FLOOR, FEDERAL TOWERS, MAVOOR ROAD,
ARAYADATHUPALAM, KOZHIKODE, PIN - 673 016.**

BY ADVS.

**SUNIL SHANKER, STANDING COUNSEL
VIDYA GANGADHARAN
DEVAYANI NAIR T.H.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26.11.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**



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D. K. SINGH, J.

W.P.(C) No. 32140 of 2024

Dated this the 26th day of November, 2024

JUDGMENT

1. The present writ petition has been filed for the following reliefs;

i) Alternatively, to direct the respondent to permit the Petitioner or borrower to pay the alleged amount pursuant to Exhibit P1 and P2 by regularizing the account by paying of the overdue amount in 40 installments or in the alternative to grant at least 50 monthly installments for paying of the entire amount as per the loan after giving due credit to the payments made by the petitioner by issuing a Writ of mandamus or any other appropriate Writ direction or Order.

ii) To grant such other relief in favour of the petitioner as this Hon'ble Court may deem fit to grant on the facts and in the circumstances of the case.

2. The petitioner had availed overdraft facility of Rs. 67,00,000/- and a federal personal loan asset guard of Rs. 6,65,131/- from the respondent Bank in the year 2021 by mortgaging his land in Janmam assignment deed No.394/2015 of SRO, Kozhikode dated 28.05.2015, and regd. Gift deed No.1590/2017 of SRO, chevayur dated 06.07.2017. The said loan liabilities are to be discharged in equal monthly installments up to 2026. The petitioner had, however, failed to discharge the loan liability in terms of the loan agreement and,



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therefore, the respondent Bank has classified the loan accounts of the petitioner as NPA and proceeded further against the petitioner under the provisions of the SARFAESI Act and the Rules made thereunder to realise its outstanding dues.

3. The learned Counsel for the respondent Bank on instructions submits that, as of today, the total overdue amount in respect of both the loans is Rs. 15,25,000/-. The learned Counsel for the respondent Bank further submits that if the petitioner makes payment of substantial upfront amount along with one regular installment in respect of both the loans, the respondent Bank shall regularize the loan account of the petitioner for making payment in terms of the loan agreement.

4. Considering the aforesaid stand of the respondent Bank, the present writ petition is disposed of on the following terms;

(i) The petitioner shall pay the entire overdue amount of Rs. 15,25,000/-in respect of both the loans along with regular installments in four equal monthly installments.

(ii) The first installment as directed above is to be paid on or before 25.12.2024, the second



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installment on or before 25.01.2025, the third installment on or before 25.02.2025 and the 4th installment on or before 25.03.2025 respectively.

(iii) After receiving the entire overdue amount as directed above, the respondent Bank shall regularize the loan accounts of the petitioner for making repayment in terms of the loan agreement.

(iv) In case of failure to make payment of any of the four installments as directed above, the Bank shall be free to proceed further against the petitioner to realise its outstanding dues.

Sd/-

D. K. SINGH
JUDGE

Svn



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APPENDIX OF WP(C) 32140/2024

PETITIONER'S EXHIBITS

**Exhibit P1 TRUE COPY OF THE POSSESSION NOTICE
ISSUED BY THE RESPONDENT BANK TO THE
PETITIONER DATED 26.07.2024.**

**Exhibit P2 TRUE COPY OF THE NOTICE DATED
02.09.2024 IN CMP NO. 2052 OF 2024 ON
THE FILES OF HON'BLE CHIEF JUDICIAL
MAGISTRATE COURT, KOZHIKODE ISSUED BY
THE ADVOCATE COMMISSIONER.**



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