

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE MR. JUSTICE GOPINATH.P.  
WEDNESDAY, THE 13<sup>TH</sup> DAY OF MAY, 2020/23RD VAISAKHA, 1942

W.P(C) NO. 9824 OF 2020

PETITIONER:

BAJIU K., AGED 41 YEARS, S/O. PADMANABHAN,  
KOOMULLY HOUSE, MODAKKALLUR P.O, KOZHIKODE,  
KERALA- 673 315.

BY ADV. SMT. SUSMITH KUMAR T.D

RESPONDENTS:

1. M/S. INDUSIND BANK LIMITED.  
NEW NO.34, G.N CHETTY ROAD, T NAGAR,  
CHENNAI- 673 323.  
REPRESENTED BY ITS MANAGER.
2. THE AUTHORIZED OFFICER,  
M/S. INDUSIND BANK LIMITED.  
FIRST FLOOR, JAIN TOWERS 2, NEAR RAILWAY BRIDGE,  
NH 17 BY PASS, EDAPALLY, KOCHI- 682 024.  
REPRESENTED BY ITS MANAGER.

BY ADV.

THIS WRIT PETITION HAVING COME UP FOR ADMISSION ON 13.05.2020,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner availed a vehicle loan from the first respondent bank. He has approached this Court, praying to permit him to pay off the defaulted instalment in respect of vehicle loan in instalments. It is the case of the petitioner that, he is suffering from a very rare disease and the absence of the vehicle especially in the lock down situation is causing serious prejudice to him.

2. I heard the standing counsel for the respondents also.

3. The learned standing counsel would submit that this is the second time that the vehicle had to be seized and the petitioner is not at all prompt in paying the instalments due on the loan amount in terms of the agreement with the bank. He states that the petitioner deserves no indulgence and that as on date an amount of more than Rs.1,35,000/- is over due (towards monthly instalments and over due interest).

4. Considering the fact that the petitioner is

suffering from a very rare and deadly disease, I requested the standing counsel to obtain instructions from the bank as to whether they were willing to permit the petitioner to take back possession of the vehicle on payment some amounts and on executing an undertaking that he will pay the regular EMI's and such other amounts as required to wipe off the over due amounts on a regular basis in future.

5. The learned counsel for the bank has been extremely fair in submitting that the bank is willing to accept an amount of Rs.60,000/- immediately from the petitioner and is willing to release the vehicle to the petitioner on receipt of the sum of Rs.60,000/-, which will be adjusted against the outstanding over due amounts, on condition that such amount is paid within in a period of one month. The standing counsel states that the petitioner must undertake to pay off the future instalments without default and also to deliver possession of the vehicle to the Bank in

case of further default.

6. Considering the fact that the petitioner is suffering from rare and deadly disease, I feel that the writ petition can be disposed of, in the following terms :-

a) The petitioner shall pay a total amount of Rs.60,000/- in 2 instalments. The first instalment shall be remitted on or before 05.06.2020. The second instalment shall be paid on or before 06.07.2020.

b) On the petitioner remitting the first instalment of Rs.30,000/-, as above, the respondent shall release the vehicle which is now in the possession of bank to the petitioner, on the petitioner executing an undertaking in such form and manner as is required by the bank, that he will surrender the vehicle, if any further default is occasioned.

c) The petitioner will continue to pay off the monthly instalments as per the loan agreement without fail.

d) The petitioner will also pay together with such monthly instalments, such amounts as may be necessary to wipe off the over due amount, after giving credit to the amount if any, paid by the petitioner in the manner

indicated above.

With these directions this writ petition is disposed of.

**GOPINATH P  
JUDGE**

**SMA**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

1. EXHIBIT P-1: THE NOTICE DATED 17-03-2020 ISSUED BY THE AUTHORIZED OFFICER, M/S. INDUSIND BANK LIMITED.
  
2. EXHIBIT P-2 : THE TRUE COPY OF THE DISCHARGE SUMMARY DATED 10-10-2018 ISSUED FROM AMRITHA INSTITUTE OF MEDICAL SCIENCES AND RESEARCH CENTRE, PONEKKARA, KOCHI, KERALA-41.
  
3. EXHIBIT P-3 : THE TRUE COPY OF THE PRESCRIPTION DATED 31-10-2018 ISSUED BY DR. MIDHUN C.B OF AMRITHA INSTITUTE OF MEDICAL SCIENCES AND RESEARCH CENTRE, PONEKKARA, KOCHI, KERALA-41.