

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

OP (DRT).No. 28 of 2015 (O)

**ORDER DATED 15-10-2014 IN SA 332/2014 OF DEBT RECOVERY TRIBUNAL,
ERNAKULAM**
.....

PETITIONER(S):

1. **VINOD KUMAR M.P.,
MANJERI PARAMBATH HOUSE, XV/689, SREE NAGAR,
ELAMKUR, MANJAPATTA, MANJERI,
MALAPPURAM (PROPRIETOR), VINOD FURNITE WORKS,
ELAMKUR VILLAGE, MANJERI, MALAPPURAM DISTRICT)**
2. **AJITHA V.,
MANJERI PARAMBATH HOUSE, V/689, SREE NAGAR,
ELAMKUR, MANJAPATTA, MANJERI,
MALAPPURAM.**
3. **DEVAKI,
AJITHA V., MANJERI PARAMBATH HOUSE, V/689,
SREE NAGAR, ELAMKUR, MANJAPATTA,
MANJERI, MALAPPURAM.**

**BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI**

RESPONDENT(S):

**THE AUTHORISED OFFICER,
CANARA BANK, SME BRANCH, MANJERI,
MALAPPURAM-676 121.**

BY ADV. SRI.V.B.HARI NARAYANAN

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING BEEN
FINALLY HEARD ON 20-03-2015, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

OP (DRT).No. 28 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF THE NOTICE UNDER SECTION 13(4) OF SARFAESI ACT
ISSUED BY THE RESPONDENT DATED 12.9.2014.**

**EXT.P2: TRUE COPY OF THE INTERIM ORDER IN S.A.332 OF 2014 DATED 15.10.2014
OF THE DEBT RECOVERY TRIBUNAL, ERNAKULAM.**

EXT.P3: TRUE COPY OF THE PAYMENT RECEIPTS DATED 25.11.2014.

**EXT.P4: TRUE COPY OF THE ORDER IN S.A.332 OF 2014 DATED 10.12.2014 OF THE
DEBT RECOVERY TRIBUNAL, ERNAKULAM.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
O.P.(DRT).No.28 of 2015
.....

Dated this the 20th day of March, 2015

J U D G M E N T

The petitioners, who had availed of a consumer loan from the respondent bank, defaulted in repayment of the same. Consequently, the respondent bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Ext.P1 is the possession notice issued under Section 13 (4) of the SARFAESI Act. When the bank initiated proceedings under the SARFAESI Act, the petitioners had approached the Debt Recovery Tribunal through S.A.No.332 of 2014 which is pending consideration before the said Tribunal. In the present O.P(DRT), the petitioners impugn Ext.P4 order that was passed by the Debt Recovery Tribunal in the said S.A.

2. I have heard the learned counsel appearing on behalf of the petitioners as also the learned Standing counsel for the respondent bank.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I note that the sole prayer of the petitioners is to permit them to remit the balance

amounts outstanding to the bank in easy instalments. Taking into account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount in respect of the term loan availed by the petitioners is stated to be Rs.68,867/- together with accrued interest. Similarly in the overdraft account availed by the petitioners for a limit of Rs.24 lakhs, the current outstanding is Rs.27,88,974/-. Thus in the latter account, the petitioners have exceeded the limit by Rs.3,88,974/-. Resultantly, the total overdue amount in respect of both the loans is an amount of Rs.4,57,841/- (3,88,974 + 68,867). Thus if the petitioners remit the said amount of Rs.4,57,841/- in six equal successive monthly instalments commencing from 31.03.2015, and continues to keep up the regular instalments as per the original loan schedule in respect of the term loan and further, complies with the requirements stipulated by the respondent bank for continuing the overdraft facility, the recovery steps initiated against the petitioners by the respondent bank shall be kept in abeyance.

(ii) The petitioners are free to pursue the S.A pending before the Debt Recovery Tribunal.

(iii) It is made clear that if the petitioners commit a default in respect of any of the

instalments, they will lose the benefit of this judgment and the respondent will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

