

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

OP (DRT).No. 48 of 2015 ()

PETITIONER(S):

**JOHN K.THOMAS AGED 44 YEARS, BUSINESS,
S/O. THOMAS RESIDING AT KUNNAPPALLIL HOUSE,
KUZHIMATTOM PO, KOTTAYAM DISTRICT, PIN- 686 533**

**BY ADVS.SRI.JACOB CHACKO
SRI.MATHEWS JOSEPH**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER/CHIEF MANAGER
SYNDICATE BANK, REGIONAL OFFICE, 1ST FLOOR
PIONEER TOWERS, SHANMUGHAM ROADM, ERNAKULAM - 682 031**
- 2. THE DEBT RECOVERY TRIBUNAL, ERNAKULAM,
REPRESENTED BY ITS PRESIDING OFFICER,
PANAMPILLY NAGAR, COCHIN - 682 016**

**R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R BY SRI.R.S. KALKURA, SC, SYNDICATE BANK**

**THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION
ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE NOTICE DATED 14.01.2013 ISSUED BY THE FIRST RESPONDENT UNDER SECTION 13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AS AND ENFORCEMENT OF SECURITY INTEREST ACT.
- EXHIBIT P2 TRUE COPY OF THE NOTICE DATED 29.06.2013 ISSUED BY THE FIRST RESPONDENT UNDER SECTION 13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AS AND ENFORCEMENT OF SECURITY INTEREST ACT.
- EXHIBIT P3 TRUE COPY OF THE STAY PETITION DATED 14.08.2014 BEFORE THE SECOND RESPONDENT HON'BLE DEBT RECOVERY TRIBUNAL, ERNAKULAM.
- EXHIBIT P4 TRUE COPY OF THE COUNTER AFFIDAVIT DATED 04.03.2015 FILED BY THE FIRST RESPONDENT IN STAY PETITION I.A No.1934/2014 BEFORE THE SECOND RESPONDENT HON'BLE DEBT RECOVERY TRIBUNAL, ERNAKULAM.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

O.P.(DRT). No. 48 of 2015

Dated this the 9th day of April, 2015

JUDGMENT

The petitioner, who had availed a 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. The petitioner then approached the Debt Recovery Tribunal through SA No.297 of 2014 along with a petition for stay. It is stated that the 2nd respondent Tribunal considered the stay petition and directed the petitioner to pay the admitted arrears of Rs.30,00,000/- in three installments commencing from 31.03.2015. It is a case of the petitioner in this petition that, the conditions imposed by the 2nd respondent Tribunal are too onerous, and the petitioner will not be in a position to comply with the said condition. It is under these circumstances, that the petitioner approaches this Court with the present writ petition under Article 227 of the Constitution of India.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of the 1st respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, and taking note of the plea of financial hardship raised by the petitioner, I feel that the interests of justice would require me to modify the direction issued by the 2nd respondent Tribunal, in the stay petition filed along with SA No.297 of 2014, so as to grant the petitioner two more installments for paying the admitted arrears of Rs.30,00,000/-. Accordingly I dispose the OP(DRT) with the following directions:-

- (i) If the petitioner pays the amount of Rs.30,00,000/- in five equal and successive monthly installments, commencing from 30.04.2015, then the stay granted by the 2nd respondent Tribunal in SA No.297/2014 shall continue to be in force.
- (ii) If the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE