

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 86 of 2015 (I)

PETITIONER(S):

**MAHEEN J M, AGED 55 YEARS,
S/O.JAMAL MUHAMMED M.
KALLUVILAKOM VEEDU, VADAKKEVILA,
POURNAMI LANE, BALARAMAPURAM,
THIRUVANANTHAPURAM.**

BY ADV. SRI.M.SREEKUMAR

RESPONDENT(S):

**1.STATE BANK OF TRAVANCORE,
REP. BY ITS CHIEF MANAGER,
HEAD OFFICE, POOJAPPURA P.O.,
THIRUVANANTHAPURAM. 695 012.**

**2.AUTHORISED OFFICER (CHIEF MANAGER),
STATE BANK OF TRAVANCORE,
BALARAMAPURAM BRANCH, THIRUVANANTHAPURAM 695 501.**

R BY SRI.JAWAHAR JOSE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE DATED 1.10.2013 ISSUED TO THE PETITIONER BY THE BANK NO.AGM II/T/BLRP.

EXT.P2: COPY OF STATEMENT OF ACCOUNTS DATED 29.12.2014 ISSUED TO THE PETITIONER BY THE BANK.

EXT.P3: COPY OF PETITION IN MC NO.1004/2014 FILED BY THE 2ND RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM DATED 8.9.2014.

EXT.P4: COPY OF THE NOTICE DATED 13.11.2014 IN MC NO.1004/2014 ON THE FILE OF THE CJM COURT, THIRUVANANTHAPURAM ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.86 OF 2015 (I)

Dated this the 5th day of January, 2015

J U D G M E N T

The petitioner, who had availed of 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. Ext.P1 is the notice issued to the petitioner in that regard. Ext.P4 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Thiruvananthapuram. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. Heard Sri.Jawahar Jose, the Standing counsel appearing on behalf of the respondents.

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 petitioner is to permit him to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount due to the respondent bank from the petitioner is stated to be Rs.5,53,026/- as on 5.1.2015; Accordingly, if the petitioner remits an amount of Rs.1,00,000/- within one month from today and the balance amounts in five equal monthly installments commencing from 5.3.2015, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp