

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 1936

WP(C).No. 116 of 2015 (L)

PETITIONER(S):

**RAHIYANATH, W/O.ABDUL HAMEED,
THONDIYIL HOUSE, PANDIKKAD P.O.,
MALAPPURAM DISTRICT.**

BY ADV. SRI.T.PRASAD.

RESPONDENT(S):

**THE AUTHORIZED OFFICER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED,
MALAPPURAM P.O., MALAPPURAM - 676 505.**

BY ADV. SRI.ESM.KABEER, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 116 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1: THE TRUE COPY OF THE NOTICE DATED 10/12/2014 ISSUED BY
THE ADVOCATE COMMISSIONER SMT.DIVYA TO THE PETITIONER.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.116 OF 2015 (L)

Dated this the 6th 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 by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Thiruvananthapuram to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.Prasad.T., the learned counsel appearing on behalf of the petitioner as also Sri.E.S.M. Kabeer, the learned Standing counsel appearing on behalf of 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 petitioner is to permit her 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.2,29,687/-. Accordingly, if the petitioner remits the amount of Rs.2,29,687/- in six equal monthly installments commencing from 2.2.2015, the recovery steps initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp