

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 223 of 2015 (C)

PETITIONER :

**BAIJU JOHN, AGED 48 YEARS,
S/O.LATE BABY JOHN, RESIDING AT 'NEST',
CHIRAKKAKOM, VARAPUZHA, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.SAM ISAAC POTHYIL
SRI.A.S.SREEJAN**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
(CHIEF MANAGER) THE FEDERAL BANK LTD.,
STRESSED ASSET MANAGEMENT CELL, FEDERAL TOWERS,
1ST FLOOR, MARINE DRIVE, ERNAKULAM. PIN-682 031**
- 2. THE BRANCH MANAGER,
FEDERAL BANK LIMITED, VARAPUZHA BRANCH,
ERNAKULAM. PIN-682 031**

**R1 & R2 BY ADV. SRI.A.ANTONY
SMT.LEELAMMA ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 223 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE MEDICAL RECORDS ISSUED MEDICAL TRUST & INDIRA GANDHI CO-OPERATIVE HOSPITAL, ERNAKULAM.**
- EXHIBIT P2. COPY OF THE JUDGMENT DATED 1.1.14 IN WPC.NO.32176/13.**
- EXHIBIT P3. COPY OF THE STATEMENT OF ACCOUNTS.**
- EXHIBIT P4. COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT BANK DATED 27.12.14.**
- EXHIBIT P5. COPY OF THE POSSESSION NOTICE ISSUED BY THE BANK DATED 30.12.14.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.223 of 2015

.....
Dated this the 11th day of February, 2015

J U D G M E N T

The petitioner who had availed of three term loans and one housing loan from the respondent bank, defaulted in repayment of the same. When the bank had initiated proceedings against him on an earlier occasion he had also approached this Court in W.P.(C). No.32176 of 2013, is disposed of by Ext.P2 judgment by which the petitioner was directed to pay the overdue amount in four equal monthly instalments commencing from 01.02.2014 and to maintain regular instalment payments as per the original loan schedule. It is pointed out that in substantial compliance with the terms of the said judgment, the petitioner had paid almost Rs.26,97,000/- to the respondent bank as against the amount of Rs.27,97,579/- which he had then to pay. Thereafter, the petitioner committed a further default and this led the respondent bank to once again issue Ext.P5 possession notice to the petitioner. 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.P3 is the notice of the Advocate Commissioner. 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.Sam Isaac Pothiyil, the learned counsel for the petitioner and Sri.A.Antony, 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 him to remit the balance amounts outstanding to the bank in easy instalments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

i. The total overdue amount from the petitioner to the respondent bank, in respect of the loans is stated to be Rs.27,64,347/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.27,64,347 /- in six equal and successive monthly instalments commencing from 28.02.2015, and continues to keep up the regular instalments as per the original loan schedule, the further steps for recovery shall be kept in abeyance.

ii. It is made clear that if the petitioner commits a default in respect of any of the instalments, 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

