

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 495 of 2015 (J)

PETITIONER(S):

- 1. SHAJAHAN, AGED 47 YEARS,
S/O.HYDROSE KUNJU, CHAKKALAYIL, KAMPALADY,
PORUVAZHI P.O., KOLLAM.**
- 2. SEENATH BEEVI, AGED 40 YEARS,
W/O.SHAJAHAN, CHAKKALAYIL, KAMPALADY,
PORUVAZHI P.O., KOLLAM.**

**BY ADVS.SRI.BINU GEORGE
SMT.HEMALATHA**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
THE KOLLAM DISTRICT CO-OPERATIVE BANK LTD.,
P B NO 130, KOLLAM-691001**
- 2. THE BRANCH MANAGER,
THE KOLLAM DISTRICT CO-OPERATIVE BANK LTD.,
PORUVAZHY BRANCH, PORUVAZHY P.O., KOLLAM-691 012.**

BY ADV. SRI.T.R.HARIKUMAR, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 495 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT. P1:-A TRUE COPY OF THE PASS BOOK IN LOAN NO CC 386/10-11 OF KOLLAM
DISTRICT CO-OPERATIVE BANK.**

EXT. P2:-A TRUE COPY OF MEDICAL CERTIFICATE DTD 24/12/2014.

EXT. P3:-A TRUE COPY OF POSSESSION TAKEN NOTICE DTD 16/12/104.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....

W.P.(C) No.495 of 2015 (J)

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Dated this the 13th day of January, 2015

JUDGMENT

The first petitioner, who availed of a mortgage loan of Rs.2,00,000/- from the respondent Bank, and the second petitioner, who stood as a guarantor and created equitable mortgage on their property, defaulted in re-payment of the loan amount. 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', against the petitioner. Ext.P3 is the possession notice issued under Section 13(2) of the SARFAESI Act to the petitioners in that regard. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Binu George, the learned counsel appearing for the petitioner and Sri.T.R.Harikumar, learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioners is to permit them to remit the overdue amount outstanding to the bank in easy installments. Taking into

account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:

i) The total amount outstanding is stated to be an amount of Rs.2,65,000/- together with accrued interest. Accordingly, if the petitioners remit the payment of Rs.2,65,000/- together with accrued interest in ten equal and successive monthly installments commencing from 16.02.2015, then, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

ii) It is made clear that, if the petitioners commit a default in respect of any of the installments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/13/01/