

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 654 of 2015 (F)

PETITIONER(S):

- 1. G.THANKARAJAN, AGED 59 YEARS,
S/O.GNANABHARAN NADAR, RESIDING AT RATHI BHAVAN,
AYANIMOODU, VEDIVACHANKOVIL,
THIRUVANANTHAPURAM DISTRICT.**
- 2. E.SREEKUMARI, AGED 52 YEARS,
W/O.G.THANKARAJAN, RESIDING AT RATHI BHAVAN,
AYANIMOODU, VEDIVACHANKOVIL, TRIVANDRUM DISTRICT.**

**BY ADVS.SRI.M.RAMASWAMY PILLAI
SMT.PREETHY R. NAIR**

RESPONDENT(S):

- 1. STATE BANK OF TRAVANCORE,
BALARAMAPURAM BRANCH,
REPRESENTED BY ITS BRANCH MANAGER,
TRIVANDRUM DISTRICT.**
- 2. THE AUTHORISED OFFICER,
STATE BANK OF TRAVANCORE,
BALARAMAPURAM BRANCH,
TRIVANDRUM DISTRICT.**

BY ADV. SRI.JAWAHAR JOSE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 654 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE PHOTOCOPY OF THE ACCEPTED SCHEDULE OF P.W.D.**
- EXT.P2: THE PHOTOCOPY OF THE POWER OF ATTORNEY DATED 10-4-2012.**
- EXT.P3: THE PHOTOCOPY OF THE TAX RECEIPT DATED 18/8/2012.**
- EXT.P4: THE PHOTOCOPY OF THE CHEQUE DATED 11-01-2013.**
- EXT.P5: THE PHOTOCOPY OF THE NOTICE DATED 13-09-2013.**
- EXT.P6: THE PHOTOCOPY OF THE WRITTEN WORDS OF THE NOTICE.**
- EXT.P7: TRUE COPY OF JUDGMENT DATED 3-2-2014 IN WP(C)NO.3328 OF 2014 (M)
OF THIS HONOURABLE COURT.**
- EXT.P8: PHOTOCOPY OF RECEIPT DATED 28/2/2014 OF RS.50,000/-.**
- EXT.8(A): PHOTOCOPY OF RECEIPT DATED 15/3/2014 OF RS.2,60,000/-.**
- EXT.P9: PHOTOCOPY OF THE NOTICE DATED 9-4-2014 ISSUED BY ADVOCATE
COMMISSIONER.**
- EXT.P10: TRUE COPY OF THE REPORT SUBMITTED BY THE ASSISTANT EXECUTIVE
ENGINEER, PWD ROADS DIVISION, ATTINGAL TO THE EXECUTIVE
ENGINEER, TRIVANDRUM ON 31.3.2014.**
- EXT.P11: THE PHOTOCOPY OF THE CHEQUE FOR RS.13,88,958/- DATED 23-4-2014.**
- EXT.P12: TRUE COPY OF JUDGMENT DATED 17-6-2014 IN WP(C)14470/2014 (G).**
- EXT.P13: TRUE COPY OF NOTICE DTD.1/1/2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.654 of 2015 (F)

.....
Dated this the 27th day of February, 2015

JUDGMENT

The petitioners, who have availed of three loans from the respondent Bank, defaulted in re-payment 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', against the petitioner. Ext.P13 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Thiruvananthapuram, to the petitioner in that regard. 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.M.Ramaswamy Pillai, learned counsel for the petitioners and Sri.Jawahar Jose, 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 petitioner is to permit him to remit the total outstanding amount 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 outstanding from the petitioners to the respondent Bank as of today is stated to be an amount of Rs.19,41,592/- together with accrued interest. Accordingly, if the petitioner remits the outstanding amount of Rs.19,41,592/- together with accrued interest and other charges in eight equal and successive monthly installment commencing from 20.03.2015, then, the recovery steps initiated against the petitioners for recovery of the amounts outstanding to the 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/27/02/

