

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 994 of 2015 (Y)

PETITIONER :

**M/S PGS HOSPITALITY,
HOTEL NEELAMBHARI SUITES, VILLANCHIRA, THALAKODE P.O.,
ERNAKULAM DISTRICT-686693. REPRESENTED BY ITS MANAGING
PARTNER SRI. P.G.SUBRAMANIAN, AGED 61 YEARS.**

**BY ADVS.SRI.G.HARIHARAN
SRI.PRAVEEN.H.**

RESPONDENTS :

- 1. THE CHIEF MANAGER AND AUTHORISED OFFICER,
(UNDER THE SECURITISATION AND
RECONSTRUCTION OF FINANCIAL ASSETS
AND ENFORCEMENT OF SECURITY INTEREST ACT 2002),
M/S FEDERAL BANK LIMITED, KOLENCHERY BRANCH,
ERNAKULAM DISTRICT-682311.**
- 2. M/S. FEDERAL BANK LIMITED
KOLENCHERY BRANCH, ERNAKULAM DISTRICT-682311
REPRESENTED BY ITS CHIEF MANAGER AND
AUTHORISED OFFICER (UNDER THE SECURITISATION
AND RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT 2002)**
- 3. RESERVA BANK OF INDIA, ERNAKULAM NORTH
KOCHI-682018 REPRESENTED BY ITS GENERAL MANAGER.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE PROJECT REPORT SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT BANK WHILE AVAILING FINANCIAL ASSISTANCE.
- EXHIBIT P2: TRUE COPY OF THE COMMUNICATION DATED 5.5.2010 ISSUED BY INDIA TOURISM, SOUTHERN REGIONAL OFFICE, ANNA SALAI, CHENNAI.
- EXHIBIT P3: TRUE COPY OF THE COMMUNICATION DATED 7.3.2011 CONTAINING THE DETAILS OF THE TERM LOAN ADVANCED BY THE 2ND RESPONDENT.
- EXHIBIT P4: TRUE COPY OF THE JUDGMENT DATED 28.11.2013 PASSED IN WPC NO.2529/2013.
- EXHIBIT P5: TRUE COPY OF THE JUDGMENT DATED 29.8.2014 PASSED IN WPC NO.9155/2013.
- EXHIBIT P6: TRUE COPY OF THE COMMUNICATION DATED 3.12.2012 ISSUED BY THE ASSISTANT DIRECTOR GENERAL & MEMBER SECRETARY OF THE HOTEL & RESTAURANT APPROVAL AND CLASSIFICATION COMMITTEE (INDIA), MINISTRY OF TOURISM, GOVERNMENT OF INDIA.
- EXHIBIT P7: TRUE COPY OF THE REPAYMENT TRACK WITH RESPECT TO LOAN ACCOUNT NO.10116900014160 FOR RS.2,50,00,000/-
- EXHIBIT P8: TRUE COPY OF THE REPAYMENT TRACK WITH RESPECT TO LOAN ACCOUNT NO.10116900014277 FOR RS.1,00,00,000/-.
- EXHIBIT P9: TRUE COPY OF THE REPAYMENT TRACK WITH RESPECT TO LAON ACCOUNT NO.10116900014277 FOR RS.1,00,00,000/-
- EXHIBIT P10: TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 DATED AND RECEIVED BY THE PETITIONER ON 08/11/2014.
- EXHIBIT P11: TRUE COPY OF THE REPLY MADE BY THE PETITIONER TO EXHIBIT P10 NOTICE AS PERMITTED UNDER SECTION 1(3A) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002,
- EXHIBIT P12: TRUE COPY OF THE MASTER CIRCULAR ISSUED BY THE RESERVE BANK OF INDIA REGARDING PRUDENTIAL NORMS ON INCOME. RECOGNITION, ASSET CLASSIFICATION AND PROVISIONING PERTAINING TO ADVANCES DATED 1.7.2014.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.994 of 2015 (Y)

.....
Dated this the 6th day of April, 2015

JUDGMENT

The petitioner, who had availed of a loan from the respondent Bank, defaulted in repayment of the same. When the Bank initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioner approached this Court seeking a stay of further proceedings pursuant to the notice issued to the petitioner under Section 13(2) of the SARFAESI Act.

2. When the matter came up for admission on 06.02.2015, this Court, by an interim order had granted a stay of further proceedings by the respondent Bank, on condition that the petitioner paid an amount of Rs.20,00,000/- to the respondent Bank on or before 31.03.2015. The said direction was issued to the petitioner, so as to test the bonafides of the petitioner in the matter of settlement of the dispute with the respondent Bank.
3. When the case was called today, it was submitted by the learned counsel for the petitioner that, the petitioner has not effected any payment to the respondent Bank, pursuant to the order dated 06.02.2015.

Under the said circumstances, I am of the view that, the petitioner is not entitled to seek the discretionary relief of this Court under Article 226 of the Constitution of India. Resultantly, this writ petition fails and it is dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/06/04/