

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. 1191 of 2015 (Y)

PETITIONER(S) :

**S.THULASI AGED 47 YEARS
W/O.MOHANAN, KANAVILA PULLOORKONATHU PUTHEN VEEDU,
PERUMPAZHUTHOOR P.O., NEYYATTINKARA.**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S):

**NEYYATTINKARA CO-OPERATIVE URBAN BANK LTD.NO.931,
REPRESENTED BY IT'S AUTHORISED OFFICER,
NEYYATTINKARA, THIRUVANANTHAPURAM-695 121.**

BY ADV. SRI.R.T.PRADEEP

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

Msd.

WP(C).No. 1191 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE DISCHARGE CARD ISSUED TO THE PETITIONER
MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM.**

**EXHIBIT-P2: TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 13(2) OF
SARFAESI ACT BY THE RESPONDENT.**

**EXHIBIT-P3: TRUE COPY OF THE ORDER IN 1138/2014 DATED 04.11.2014 OF
CJM COURT, THIRUVANANTHAPURAM.**

EXHIBIT-P4: TRUE COPY OF NOTICE OF ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1191 OF 2015

Dated this the 13th day of January, 2015

J U D G M E N T

The petitioner, who had availed of Rs.3 lakhs 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.P3 is the order of Chief Judicial Magistrate, Thiruvananthapuram, pursuant to which an Advocate Commissioner was appointed to take possession. Ext.P4 is the notice issued by 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.G.Sudheer, the learned counsel appearing on behalf of the petitioner as also Sri.R.T.Pradeep, the learned Standing counsel appearing on behalf of the respondent.

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 amount outstanding from the petitioner to the respondent bank, as of today, is stated to be an amount of Rs.4,05,116/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,05,116/- together with accrued interest in 12 equal and successive monthly instalments commencing from 31.01.2015, then the further proceedings for recovery of loan amounts from the petitioner 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

