

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 1582 of 2015 (W)

PETITIONER(S):

**BYJU K.,
S/O. KARUNAKARAN NAIR, AGED 47 YEARS, NEELALAND,
THEVALAPURAM
KOTTARAKKARA, KOLLAM.**

BY ADV. SRI.SABU S.KALLARAMOOLA

RESPONDENT(S):

- 1. KOLLAM DISTRICT CO-OPERATIVE BANK
HEAD OFFICE, CHINNAKADA, KOLLAM- 691 001
REPRESENTED BY ITS AUTHORISED OFFICER.**
- 2. THE BRANCH MANAGER,
KOLLAM DISTRICT CO-OPERATIVE BANK
PUTHOOR EVENING BRANCH, PUTHOOR, KOLLAM. 691 004.**

**R1-R2 BY ADV. SRI.T.R.HARIKUMAR, SC, KOLLAM DISTRICT
COOPERATIVE BANK LTD.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 1582 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE DISCHARGE SUMMARY AND REPORT OF THE PETITIONER AND HIS MOTHER.

EXHIBIT-P2-TRUE COPY OF THE NOTICE DATED 21/11/2011 OF THE IST RESPONDENT

EXHIBIT-P3-TRUE COPY OF THE SALE NOTICE DATED 22/12/2014 OF THE IST RESPONDENT.

EXHIBIT-P4-TRUE COPY OF THE REQUEST/LETTER DATED 12/01/2015 OF THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1582 OF 2015 (W)

Dated this the 22nd day of January, 2015

J U D G M E N T

The petitioner, who had availed of a loan 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.P2 is the possession notice issued to the petitioner under the SARFAESI Act and Ext.P3 is the sale notice issued to the petitioner. 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.Sabu S. (Kallaramoola), the learned counsel appearing for the petitioner as also Sri.T.R.Hari Kumar, the learned Standing counsel appearing for 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 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 petitioner to the respondent bank is stated to be around Rs.9,00,000/- with accrued interest. Accordingly, if the petitioner pays the entire amount of Rs.9,00,000/- in three installments, namely, Rs.1,00,000/- on or before 15.2.2015, another amount of Rs.1,00,000/- by 15.3.2015 and the remaining amount of Rs.7,00,000/- together with accrued interest by 15.4.2015, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the installments, 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.

(iii) I make it clear that it shall be open to the petitioner to pursue his representation for the benefit of One Time Settlement scheme, which is currently pending with the respondent bank, during

the period of effecting repayments as directed in
this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp