

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 1714 of 2015 (L)

PETITIONER :

**MUHAMMED BASHEER.C,
S/O.AHAMMED BAPUTTY, CHUTHANTAKATHU HOUSE,
KANNAMKULAM, KARADU ROAD,
TANOOR P.O., MALAPPURAM DISTRICT.**

BY ADV. SRI.M.S.UNNIKRISHNAN

RESPONDENT(S):

- 1. MALAPPURAM DISTRICT CO-OPERATIVE
BANK LTD NO. 4329, P.B.NO.8, MALAPPURAM - 676 505,
REPRESENTED BY ITS BRANCH MANAGER.**
- 2. MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD,
THANOOR BRANCH,PIN - 676 302,
REPRESENTED BY ITS BRANCH MANAGER.**
- 3. AUTHORISED OFFICER FOR RECOVERY,
MALAPPURAM DISTRICT CO-OPERATIVE BANK,
HEAD OFFICE, NO.8, P.B.NO.8, UP HILL,
MALAPPURAM, PIN - 676 505.**

R1 TO R3 BY SRI.ESM.KABEER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF COPY OF THE PASS BOOK DETAILS OF THE PETITIONER AS REGARDS LOAN ACCOUNT CL 2882 OF THE 2ND RESPONDENT
- EXT.P-2: TRUE COPY OF THE NOTICE UNDER SECTION 13(2) OF SARFAESI ACT WAS ISSUED IST RESPONDENT THE PETITIONER
- EXT.P-3: TRUE COPY OF THE PROCEEDINGS DATED 27.5.2013 THE IST RESPONDENT BANK PERMITTED THE PETITIONER TO DISCHARGE THE LIABILITY IN 9 MONTHLY INSTALMENTS
- EXT.P-4: TRUE COPY OF THE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR.P.GOPINATHAN, IQRAH HOSPITAL, CALICUT TO THE PETITIONER
- EXT.P-5: TRUE COPY OF THE APPLICATION DATED 10.3.2014 FOR THE BENEFIT OF INSTALMENT PAYMENT TILL MARCH 2015.
- EXT.P-6: TRUE COPY OF THE NOTICE DATED 11.11.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER
- EXT.P-7: TRUE COPY OF THE COPY OF THE NOTICE DATED 2.1.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER
- EXT.P-8: TRUE COPY OF THE COPY OF THE NOTICE DATED 10.1.2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.1714 of 2015 (L)

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Dated this the 16th day of January, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 2nd 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.P8 is the possession notice issued under Section 13(2) of SARFAESI Act 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.S.Unnikrishnan, learned counsel for the petitioner and Sri.ESM Kabeer, 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 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 petitioner to the respondent Bank is stated to be an amount of Rs.2,77,825/- together with accrued interest. Accordingly, if the petitioner remits the outstanding amount of Rs.2,77,825/- together with accrued interest and other charges in ten equal and successive monthly installment commencing from 31.01.2015, then, the recovery steps initiated against him pursuant to Ext.P8 possession notice 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 benefits 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/17/01/