

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 1823 of 2015 (C)

PETITIONER(S) :

**MATHEW ELAVUNKAL, AGED 57 YEARS,
S/O.SEBASTIAN, ELAVUNKAL HOUSE, KACHERIKADAVU POST,
KANNUR DISTRICT.**

**BY ADVS.SRI.M.SASINDRAN
SRI.S.SHYAM KUMAR**

RESPONDENT(S) :

- 1. THE DHANALAXMI BANK LTD
ZONAL OFFICE, DHANALAXMI BUILDING, 1ST FLOOR
PUNKUNNAM, THRISSUR - 680 002
REPRESENTEDBY ITS GENERAL MANAGER.**
- 2. THE MANAGER
DHANALAXMI BANK LTD, KANNUR BRANCH, KANNUR - 670 001.**
- 3. THE AUTHORIZED OFFICER
UNDER SARFAESI ACT, DHANALAXMI BANK LIMITED,
KANNUR BRANCH, KANNUR DISTRICT - 670 001.**

BY SRI.C.K.KARUNAKARAN,SC,DHANALAKSHMI BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMV

: 2 :

WP(C).No. 1823 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P-1: COPY OF THE STATEMENT OF LOAN ACCOUNT ISSUED BY THE BANK TO THE PETITIONER.

EXT.P-2: COPY OF THE NOTICE DATED 23.2.2013 ISSUED BY THE RESPONDENT BANK.

EXT.P-3: COPY OF THE NOTICE DATED 25.11.2014 ISSUED BY THE ADVOCATE COMMISSIONER.

EXT.P-4: COPY OF THE RELEVANT EXTRACTS FROM THE CMP NO.5264 OF 2014 FILED BY THE RESPONDENT BANK BEFORE THE CJM.

EXT.P-5: COPY OF THE ORDER DATED 15.10.2014 IN CMP NO.5264 OF 2014 OF CJM COURT, THALASSERY.

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

PA.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.1823 of 2015 (C)

.....
Dated this the 23rd day of January, 2015

JUDGMENT

The petitioner, who had availed of a housing loan from the 1st 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.P3 is the notice issued by the Advocate Commissioner to the petitioner in that regard. Ext.P5 is the order passed by the Chief Judicial Magistrate, Thalassery to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by 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.M.Sasindran, learned counsel for the petitioner and Sri.C.K.Karunakaran, 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

overdue 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 overdue amount from the petitioner to the respondent Bank is stated to be an amount of Rs.1,50,050/-. Accordingly, if the petitioner remits the overdue amount of Rs.1,50,050/- in five equal and successive monthly installment commencing from 16.02.2015, then, the recovery steps initiated against him pursuant to Ext.P5 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/23/01/