

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936**

**WP(C).No. 1928 of 2015 (M)**  
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**PETITIONER :**  
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**MUHAMMED RASHEED,  
S/O.SAINULABDEEN, (PROPRIETOR, M/S. GLOBAL TRADERS,  
THOLIKUZHAY, THOPPIL VEEDU, THOLIKUZHAY P.O.,  
ADAYAMON, THIRUVANANTHAPURAM - 695 614.**

**BY ADV. SRI.J.JAYAKUMAR**

**RESPONDENTS:**  
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- 1. THE BRANCH MANAGER,  
STATE BANK OF TRAVANCORE, KILIMANNOOR BRANCH,  
P.B.NO. 751, FIVE STAR SHOPPING COMPLEX, KILIMANNOOR,  
THIRUVANANTHAPURAM DISTRICT.**
- 2. THE CHIEF MANAGER/AUTHORIZED OFFICER,  
STATE BANK OF TRAVANCORE, THIRUVANANTHAPURAM.**

**R1 & R2 BY ADV. SRI.JAWAHAR JOSE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**sts**

**WP(C).No. 1928 of 2015 (M)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXT.P1: TRUE COPY OF THE NOTICE DATED 19/11/2014 ISSUED BY THE  
ADVOCATE COMMISSIONER.**

**EXT.P2: TRUE COPY OF THE STATEMENT OF ACCOUNTS ISSUED BY THE 1ST  
RESPONDENT.**

**RESPONDENT(S)' EXHIBITS**  
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**EXT.R1(A): TRUE COPY OF THE INVENTORY PREPARED BY THE ADVOCATE  
COMMISSIONER IN MC.NO.1063/2014.**

**/TRUE COPY/**

**P.A.TO.JUDGE**

**sts**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C) No. 1928 of 2015 (M)**  
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Dated this the 5<sup>th</sup> day of March, 2015

**JUDGMENT**

The petitioner, who had availed of a Cash Credit facility from the 1<sup>st</sup> 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.P1 is the copy of the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate Court, Thiruvananthapuram, to take possession of the immovable property that was offered as security to the respondent Bank, for the loan availed by the petitioner. It is stated that, thereafter, the possession of the secured assets was taken over by the respondent Bank on 05.01.2015. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.J.Jayakumar, the learned counsel appearing for the petitioner and Sri.Jawahar Jose, learned standing counsel appearing for the respondents.
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 entire amount 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 Rs.30,50,375/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.15,00,000/- on or before 31.03.2015 and the balance amount of Rs.15,50,375/- together with accrued interest in seven equal and successive monthly installments commencing from 20.04.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts shall be kept in abeyance.

(ii) I make it clear that, on the petitioner paying the 1<sup>st</sup> installment of Rs.15,00,000/- within the time stipulated above, the respondent Bank shall restore possession of the secured assets to the petitioner against an undertaking that he will not alienate the secured assets during the pendency of the loan arrangements with the respondent Bank.

(iii) 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.

sd/-

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**