

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).NO. 2017 OF 2015 (B)

PETITIONER:

**AJI JOSEPH, AGED 41 YEARS
S/O.JOSEPH, KANAKAMCHERRY, KULATHUVAYAL
KAYANNA P.O., PERAMBRA, KOZHIKODE - 673 526.**

**BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU**

RESPONDENT:

**THE AUTHORIZED OFFICER,
TAMILNADU MERCANTILE BANK LIMITED, REGIONAL OFFICE
FIRST FLOOR, KURAISHA PLAZA, T.C.54/2, 4, 5, 6 & 7
PAPPANAMCODE, THIRUVANANTHAPURAM - 695 018.**

**BY SRI.K.S.DILIP, SC
BY ADVS. SRI.SAJU N.A.
SMT.G.LEKHA
SMT.P.J.FLONY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AS

WP(C).NO. 2017 OF 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT. P1: COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE SUB INSPECTOR OF NALLALAM POLICE STATION DATED 30/5/2014.
- EXT. P2: COPY OF THE OBJECTION FILED BY THE PETITIONER TO THE PUBLICATION OF 13(2) NOTICE DATED 20/12/2014.
- EXT. P3: COPY OF THE REPLY TO THE PETITIONER'S OBJECTION DATED 26/12/2014.
- EXT. P4: COPY OF THE LETTER ISSUED BY THE RESPONDENT TO THE FIRM OF THE PETITIONER DATED 21/7/2014.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

AS

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.2017 of 2015 (B)

.....
Dated this the 8th day of April, 2015

JUDGMENT

The petitioner, who had availed of a Cash Credit facility 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', against the petitioner. Ext.P2 is the 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.Sudhissh R., the learned counsel for the petitioner and Sri.K.S.Dileep, the learned Standing counsel appearing for the respondent.

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 total 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.25,00,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.25,00,000/- together with accrued interest, in twelve equal and successive monthly instalments commencing from 30.04.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/08/04/