

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 2220 of 2015 (B)

PETITIONER(S):

- 1. MR.FREDYNENTS .S,
PUTHAN VILAYIL CONVENT LANE, NALANCHIRA MUTTADA,
P.O.THIRUVANANTHAPURAM, KERALA-695025.**
- 2. MRS.PRASEEDA.T
PUTHAN VILAYI CONVENT LANE, NALANCHIRA MUTTADA
P.O.THIRUVANANTHAPURAM, KERALA-695025.**

**BY ADVS.SRI.SOJAN MICHEAL
SRI.NISHIL.P.S.**

RESPONDENT(S):

- 1. THE AXIS BANK LTD.
AXIS BANK RETAIL ASSETS CENTER,
THIRUVANANTHAPURAM
KILLI TOWERS, KILLIPALAM, NEAR PRS HOSPITAL
KARAMANA, TRIVANDRUM-695002
REPRESENTED BY ITS CHIEF MANAGER AND
AUTHORISED OFFICER.**
- 2. THE AUTHORISED OFFICER
THE AXIS BANK LTD., AXIS BANK RETAIL ASSETS CENTER
KILLI TOWERS, KILLIPALAM, THIRUVANANTHAPURAM-695002.**

**BY ADVS. SMT.SREEKALA KRISHNADAS
SMT.CINZIA RAJU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 2220 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO
THE PETITIONERS DTED 21.12.2013.**

**EXHIBIT-P2: TRUE COPY OF THE APPLICATION FILED BY THE 1ST RESPONDENT
BEFORE THE CHIEF JUDICIAL MAGISTRATE'S COURT,
THIRUVANANTHAPURAM. (WITHOUT ANNEXURES)**

**EXHIBIT-P3: TRUE COPY OF THE WARRANT DATED 28.10.2014 IN M.C.NO.1119/2014
OF THE CHIEF JUDICIAL MAGISTRATE'S COURT,
THIRUVANANTHAPURAM.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2220 of 2015

.....
Dated this the 4th day of March, 2015

J U D G M E N T

Petitioners, 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.P3 is the order of the Chief Judicial Magistrate, Thiruvananthapuram. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.Sojan Micheal, the learned counsel appearing on behalf of the petitioners as also Smt.Srikala Krishnadas, the learned Standing counsel 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 petitioners is to permit them to remit the balance amounts outstanding to the bank in easy instalments. Taking into account the plea of financial hardship raised by the petitioners, I

dispose the writ petition with the following directions:-

(i) The total overdue amount in respect of the loan availed by the petitioners is stated to be Rs.14,42,876/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.14,42,876/- together with accrued interest in seven equal and successive monthly instalments commencing from 20.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioners by the respondent bank shall be kept in abeyance.

(ii) It is made clear that if the petitioners commit a default in respect of any of the instalments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

