

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 2345 of 2015 (P)

PETITIONER:

**K.S.SANTHA, B.S.SADANAM,
KARATTE, PULIMATH VILLAGE,
VAMANAPURAM, TRIVANDRUM.**

**BY ADVS.SMT.K.P.SANTHI
SRI.RILGIN V.GEORGE
SMT.A.D.DIVYA**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
CO-OPERATIVE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE THIRUVANANTHAPURAM DISTRICT
CO-OPERATIVE BANK LIMITED,
HEAD OFFICE, KIZHAKKEKOTTA, TRIVANDRUM,
REPRESENTED BY ITS AUTHORISED OFFICER.**
- 3. PULIMATH GRAMA PANCHAYAT,
PULIMATH, TRIVANDRUM,
REPRESENTED BY ITS SECRETARY.**

**R1 BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA
R2 BY SRI.T.R.HARIKUMAR, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 2345 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1: TRUE COPY OF THE PASS BOOK FOR THE LOAN C65.**
- EXHIBIT-P2: TRUE COPY OF THE PASS BOOK FOR THE LOAN CSN 527.**
- EXHIBIT-P3: TRUE COPY OF THE AGREEMENT DATED 17.4.2010 EXECUTED WITH THE PULIMATH GRAMA PANCHAYAT.**
- EXHIBIT-P4: TRUE COPY OF THE NOTICE DATED 1.10.2014 PUBLISHED BY THE 2ND RESPONDENT.**
- EXHIBIT-P5: TRUE COPY OF THE LETTER DATED 14.7.2014 OF THE JOINT REGISTRAR (GENERAL).**
- EXHIBIT-P6: TRUE COPY OF THE NOTICE DATED 2.1.2015 OF THE 2ND RESPONDENT.**

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

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2345 of 2015

.....
Dated this the 10th day of February, 2015

J U D G M E N T

The petitioner 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.P4 is the notice under Section 13 (2) of the SARFAESI Act. Ext.P6 is the possession notice. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Smt.K.P.Santhi, the learned counsel for the petitioner and Sri.T.R.Haricumar, the learned Standing Counsel appearing on behalf of the respondent bank and also the learned Government Pleader Sri.Shyson P.Manghuzha for the 1st respondent.

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 balance

amounts outstanding to the bank in easy instalments. 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, in respect of the loan is stated to be Rs.1,73,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,73,000/- together with accrued interest in eight successive monthly instalments commencing from 01.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent Bank 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 benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

