

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No.2471 of 2015 (H)

PETITIONER:

**MRS.KARTHIYANI,AGED 60 YEARS,
KUZHUVELIPARAMBIL HOUSE,KODUKULANGI,
VENMONEY VILLAGE,CHENGANNOOR TALUK,
ALAPPUZHA-689 508.**

**BY ADVS.SRI.S.VIDYASAGAR
DR.P.K.SANAL KUMAR**

RESPONDENTS:

- 1. SECRETARY,REVENUE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-696 001.**
- 2. DEWAN HOUSING FINANCE CORPORATION LTD.
(DHFL),1ST FLOOR,MADEENA ARCADE,
CMS COLLEGE ROAD,BAKERY JUNCTION,
KOTTAYAM,PIN-686 001,REPRESENTED BY ITS AUTHORISED OFFICER
DIWAN HOUSING FINANCE CORPORATION OFFICE,
1ST FLOOR,MADEENA ARCADE,CMS COLLEGE ROAD,
BAKERY JUNCTION,KOTTAYAM-686 001.**

R1 BY GOVT. PLEADER SRI.SHYSON P.MANGUZHA.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1(a)(Series):RECEIPT DTD.28.10.2013 ISSUED BY RESPONDENT.

EXT.P1(b):RECEIPT DTD.31.07.2013 ISSUED BY RESPONDENT.

EXT.P1(c):RECEIPT DTD.14.2.2012 ISSUED BY RESPONDENT.

EXT.P1(d):RECEIPT DTD.28.1.2011 ISSUED BY RESPONDENT.

EXT.P1(e):RECEIPT DTD.31.5.2011 ISSUED BY RESPONDENT.

EXT.P1(f):RECEIPT DTD.14.11.2011 ISSUED BY RESPONDENT.

EXT.P1(g):RECEIPT DTD.10.8.2011 ISSUED BY RESPONDENT.

EXT.P1(h):RECEIPT DTD.6.7.2012 ISSUED BY RESPONDENT.

EXT.P1(i):RECEIPT DTD.22.11.2010 ISSUED BY RESPONDENT.

EXT.P1(j):RECEIPT DTD.18.9.2010 ISSUED BY RESPONDENT.

EXT.P2:THE TRUE COPY OF THE HAND OVER NOTICE DTD.18.10.2013.

EXT.P3:THE TRUE COPY OF THE DISPOSSESSION NOTICE DTD.16.1.2015
ISSUED IN MC.121/2014 OF CJM,ALAPPUZHA.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2471 of 2015

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

J U D G M E N T

The petitioner, who had availed of a loan from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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, Alappuzha. In the writ petition, the petitioner impugns the steps initiated by the respondent company for recovery of the loan amounts.

2. I have heard Sri.S.Vidya Sagar, the learned counsel appearing on behalf of the petitioner as also Sri.Shyson P.Manguzha, the learned Government Pleader 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 balance amounts outstanding to the company 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 in respect of the loan availed by the petitioner is stated to be Rs.49,420/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.49,420/- together with accrued interest in five equal and successive monthly instalments commencing from 25.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent company 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 company will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

