

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 2481 of 2015 (I)

PETITIONER:

**LEELAMANI S.,
WIFE OF REJIMON G.K, AGED 40,
RESIDING AT THOTTAPPALLIL HOUSE,
POONJAR SOUTH P.O., KOTTAYAM - 686582.**

BY ADV. SRI.ABRAHAM GEORGE JACOB

RESPONDENT(S):

- 1. KOTTAYAM DISTRICT COOPERATIVE BANK LTD.,
DISTRICT COOPERATIVE BANK BUILDINGS,
PB NO. 140, CENTRAL JUNCTION, KOTTAYAM - 686 001,
REPRESENTED B ITS GENERAL MANAGER**
- 2. THE AUTHORISED OFFICER,
KOTTAYAM DISTRICT COOPERATIVE BANK LTD.,
DISTRICT COOPERATIVE BANK BUILDINGS,
PB NO.140, CENTRAL JUNCTION, KOTTAYAM - 686 001.**
- 3. SRI.AKASH K.R., ADV.COMMISSIONER,
CHANNANICKADU COMPLEX,
COLLECTORATE P.O., KOTTAYAM - 686 002.**

R1 & R2 BY ADV. SRI.SUNIL CYRIAC,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 2481 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- TRUE COPY OF THE LETTER DATED 21.6.2014 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.**
- P2- TRUE COPY OF NOTICE NO. SEC & V 2369/2014-2015 DATED 23.6.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
- P3- TRUE COPY OF THE LETTER DATED 30.6.2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
- P4- TRUE COPY OF LETTER DATED 25.8.2014 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT IS PRODUCED HERewith MARKED.**
- P5- TRUE COPY OF THE NOTICE DATED 31.12.2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**
- P6- TRUE COPY OF REPRESENTATION DATED 9.1.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

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

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.2481 of 2015

.....
Dated this the 6th day of April, 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.P5 is the notice of the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court, Kottayam, to take possession of the secured assets. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also 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 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 in respect of the loan availed by the petitioner is stated to be Rs.5,66,425/- together with accrued interest from 23.01.2015. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,66,425/- together with accrued interest from 23.01.2015, in eight equal and successive monthly instalments commencing from 20.04.2015, 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

