

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 3770 of 2015 (U)

PETITIONER(S):

**1.GOPAKUMAR.J, AGED 45 YEARS
S/O.JANARDHANAN NAIR, R/AT T.C. 43/707
KOCHUVARUVILAKOM, KAMALESWARAM, MANACAUD,
THIRUVANANTHAPURAM - 695 009.**

**2.LATHAKUMARI C.,
W/O.GOPAKUMAR J.,
R/AT T.C. 43/707, KOCHUVARUVILAKOM,
KAMALESWARAM, MANACAUD, THIRUVANANTHAPURAM - 695 009.**

**BY ADVS.SRI.S.JUSTUS
SRI.JUDIT SEBASTIAN**

RESPONDENT(S):

**THE STATE BANK OF TRAVANCORE,
SREEKARIYAM BRANCH, THIRUVANANTHAPURAM DISTRICT,
REPRESENTED BY ITS MANAGER PIN 695 017.**

R1 BY ADV.SRI.JAWAHAR JOSE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C).NO.3770/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.3770 OF 2015 (U)

Dated this the 5th day of February, 2015

J U D G M E N T

The 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.P1 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate Court, 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.S.Justus, the learned counsel appearing for the petitioners as also Sri.Jawahar Jose, the learned Standing counsel appearing 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 installments. Taking into account the plea of financial hardship raised by the petitioners, 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.34,26,292/- together with accrued interest. Accordingly, if the petitioner pays the above amount of Rs.34,26,292/- together with accrued interest in twelve equal and successive monthly installments commencing from 20.2.2015, then the recovery steps initiated against them 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 installments, 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

prp