

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 4345 of 2015 (P)

PETITIONER(S) :

SHAFI,
S/O.ALAVIKUTTY, KOZHIPARAMBATH HOUSE,
PARAMBIL PEEDIKA P.O.,
MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH.

RESPONDENT(S) :

THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
MALAPPURAM,
REPRESENTED BY ITS GENERAL MANAGER (AUTHORISED OFFICER).
HEAD OFFICE, UPHILL, MALAPPURAM
PIN - 676 505.

BY SRI.ESM.KABEER, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1: TRUE COPY OF THE PETITION FILED BY THE RESPONDENT BEFORE
THE CHIEF JUDICIAL MAGISTRATE, MANJERI AS CMP NO.
2919/2014.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.4345 of 2015 (P)
.....

Dated this the 11th day of February, 2015

JUDGMENT

The petitioner and his wife who had availed of a loan from the respondent Bank, defaulted in re-payment of the same. When the petitioner became a defaulter, 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', against the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Babu S.Nair, the learned counsel appearing for the petitioner, Sri.ESM Kabeer, learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total amount outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, 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.3,36,787/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.3,36,787/- together with accrued interest in eight equal and successive monthly installments commencing from 28.02.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the Bank shall be kept in abeyance.

(ii) It is made clear that, if the petitioner commits a default in respect of any of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/11/02/