

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936**

**WP(C).No. 4470 of 2015 (G)**  
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**PETITIONER(S):**  
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- 1. MUMTAZ JAHANGHEER, AGED 55 YEARS  
W/O. JAHANGHER, GLOBE HOUSE, LAWYER COMPOUND,  
CHINNAKKADA, KOLLAM - 691 001.**
- 2. JAHANGHEER, AGED 64 YEARS  
S/O. MUHAMMED ABDUL KAHER, GLOBE HUSE, LAWYER COMPOUND  
CHINNAKKADA, KOLLAM - 691 001.**

**BY ADV. SRL.R.MOHANA BABU**

**RESPONDENT(S):**  
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- 1. THE KOLLAM CO-OPERATIVE URBAN BANK LTD.NO.960  
KOLLAM REPRESENTED BY ITS GENERAL MANAGER - 691 001.**
- 2. THE AUTHORISED OFFICER UNDER SARFAESI ACT  
KOLLAM CO-OPERATIVE URBAN BANK LTD. NO. 960  
YMCA ROAD, KOLLAM - 691 001.**

**R BY SRL.N.DHARMADAN (SR.)  
R BY SMT.D.P.RENU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXT.P1 - TRUE COPY OF THE NOTICE DT. 2.2.15 ISSUED BY COMMISSIONER  
ADVOCATE TO THE PETITIONER.**

**EXT.P2(A) - TRUE COPY OF CASH RECEIPTS NO. 59 DT. 14.2.11 FOR RS. 50,000/-  
ISSUED BY 1ST RESPONDENT.**

**EXT.P2(B) - TRUE COPY OF CASH RECEIPT NO. 40 DT. 29.6.1 FOR RS. 1,00,000/-  
ISSUED BY 1ST RESPONDENT.**

**EXT.P2(C) - TRUE COPY OF CASH RECEIPTS NO. 95 ISSUED BY 1ST RESPONDENT  
DT. 15.9.11 FOR RS. 3,00,000/-**

**EXT.P2(D) - TRUE COPY OF CASH RECEIPTS NO. 55 ISSUED BY 1ST RESPONDENT  
DT. 21.11.13 FOR RS. 50,000/-**

**EXT.P2(E) - TRUE COPY OF PAY ORDER DT. 13.1.14 OF KARUR VYSYA BANK,  
KOLLAM FOR RS. 50,000/- PRODUCED TO 1ST RESPONDENT.**

**EXT.P2(F) - TRUE COPY OF CASH RECEIPTS NO. 37 ISSUED BY 1ST RESPONDENT  
DT. 17.2.14 FOR RS. 1,50,000/-**

**EXT.P3 - TRUE COPY OF NOTICE DT. 12.10.13 ISSUED BY 1ST RESPONDENT TO  
THE PETITIONERS CLAIMING 8,14,173/-**

**EXT.P4 - TRUE COPY OF NOITCE DT. 21.8.13 ISSUED WITH NO. 1636/13 BY 1ST  
RESPONDENT TO THE PETITIONERS CLAIMING AMOUNT OF RS. 8,01,965/-**

**RESPONDENT(S)' EXHIBITS:           NIL.**  
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**//TRUE COPY//**

**P.S. TO JUDGE**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.4470 OF 2015 (G)**  
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**Dated this the 12<sup>th</sup> 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. Exts.P3 and P4 are the notices issued to the petitioners under Section 13(2) of the SARFAESI Act. 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.Mohana Babu R., the learned counsel appearing on behalf of the petitioners as also Smt.Renu.D.P., the learned Standing counsel appearing on behalf of 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 petitioners to the respondent bank, is stated to be Rs.6,88,681/- together with accrued interest. Accordingly, if the petitioners remit the above amount together with accrued interest in six equal and successive monthly installments commencing from 1.3.2015, 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