

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C) .No. 4497 of 2015 (J)

PETITIONER(S) :

SMINUMON K.S. ,
AGED 30 YEARS
S/O.LATE SIVADASAN K.N. ,
KUIRUVACHIRA HOUSE,
KENICHIRA POST,
WAYANAD DISTRICT.

BY ADVS.SRI.C.M.NAZAR
SRI.MANSOOR B.H.

RESPONDENT(S) :

AUTHORISED OFFICER,
THE KERALA STATE CO-OPERATIVE BANK,
KOZHICODE REGIONAL OFFICE,
COLOMBO COMPLEX,
M.M.ALI ROAD,
KOZHICODE-673 002.

BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BANK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT P1 : A TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT
 UNDER SEC 13(4) OF THE SARFAESI ACT DATED 14-01-2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.4497 of 2015
.....

Dated this the 2nd day of March, 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.P1 is the possession notice under Section 13 (4) of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.C.M.Nazar, the learned counsel appearing on behalf of the petitioner as also Sri.George Poonthottam, 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.5,94,746/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,94,746 /- together with accrued interest in six equal and successive monthly instalments commencing from 16.03.2015, and continues to keep up 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

mns

