

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 4915 of 2015 (L)

PETITIONER(S):

- 1. OMANA AMMA, AGED 75 YEARS
W/O.GOPALAN NAIR, KONGOTTU HOUSE, KOZHUKKALLOOR P.O.
KOZHUKKALLOOR P.O., KOZHIKODE-673524.**
- 2. SOBHANA ALIAS SOBHANA AMMA, AGED 40 YEARS
W/O.RAMADASAN K., KANDAMPATH MEETHAL HOUSE
KOZHUKKALLOOR P.O., KOZHIKODE-673524.**

**BY ADVS.DR.VN.SANKARJEE
SRI.S.SIDHARDHAN
SRI.VN.MADHUSUDANAN
SRI.PRATHAP. S.R.K.
SMT.R.UDAYA JYOTHI**

RESPONDENT(S):

- 1. THE KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.
MEPPAYYUR BRANCH, KOZHUKKALLOOR P.O., KOZHIKODE-673524.**
- 2. THE AUTHORISED OFFICER
KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.
KALLAI ROAD, KOZHIKODE-673002.**

R1,R2 BY ADV. SRLR.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK, LTD.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 4915 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: TRUE COPY OF THE COUNTERFOIL OF THE PAYMENT MADE ON
11.9.2014.**

**EXHIBIT-P2: TRUE COPY OF THE COUNTERFOIL OF THE PAYMENT MADE ON
1.10.2014.**

**EXHIBIT-P3: TRUE COPY OF THE POSSESSION NOTICE DATED 6.2.2015 ISSUED
BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4915 OF 2015 (L)

Dated this the 17th day of March, 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.P3 is the possession notice issued to the petitioners under Section 13(4) 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 the learned counsel appearing for the petitioners as also 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 overdue amount, in respect of the loan, is stated to be Rs.40,000/- together with accrued interest. Accordingly, if the petitioners pay the above amount of Rs.40,000/- together with accrued interest in two equal and successive monthly installments commencing from 30.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings 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