

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

WP(C).No. 4938 of 2015 (N)

PETITIONER(S):

**KUTTAPPAN.D., AGED 48 YEARS,
AMBALAMKATTIL HOUSE, KALLAR PATTOM COLONY,
RAMAKALMEDU, P.O. THOOKUPALAM,
IDUKKI DISTRICT. PIN 685 552.**

**BY ADVS.SRI.BIJU MARTIN
SRI.M.M.SALIM
SRI.D.M.NOWFAL**

RESPONDENT(S):

**1.THE AUTHORISED OFFICER,
SECURITIZATION AND RECONSTRUCTION OF FINANCIAL
ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002
(IDUKKI DISTRICT CO-OPERATIVE BANK LTD.), HEAD OFFICE,
P.B. NO.2, IDUKKI COLONY P.O. PIN - 685 602.**

**2.IDUKKI DISTRICT CO-OPERATIVE BANK LIMITED,
MUNDIYERUMA BRANCH, REPRESENTED BY ITS SECRETARY
PIN 685 552.**

**3.THE SECRETARY,
IDUKKI DISTRICT CO-OPERATIVE BANK LIMITED,
MUNDIYERUMA BRANCH, PIN 685 552.**

R BY SRI.LIJI J.VADAKKEDOM, SC, IDUKKI DIST. CO. OP.BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REPAYMENT RECEIPTS ISSUED BY THE RESPONDENT BANK DATED 5.5.14.

EXT.P1(A): COPY OF THE REPAYMENT RECEIPTS ISSUED BY THE RESPONDENT BANK DATED 3.6.14.

EXT.P1(B): COPY OF THE REPAYMENT RECEIPTS ISSUED BY THE RESPONDENT BANK DATED 17.9.14.

EXT.P1(C): COPY OF THE REPAYMENT RECEIPTS ISSUED BY THE RESPONDENT BANK DATED 12.1.15.

EXT.P1(D): COPY OF THE REPAYMENT RECEIPTS ISSUED BY THE RESPONDENT BANK DATED 13.1.15.

EXT.P2: COPY OF THE POSSESSION NOTICE DATED 5.1.15.

EXT.P3: COPY OF THE AUCTION NOTICE DATED 5.1.2015.

EXT.P4: COPY OF THE AGREEMENT FOR SALE DEED DATED 27.12.14.

EXT.P5: COPY OF THE REPRESENTATION DATED 14.2.2015.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4938 OF 2015 (N)

Dated this the 18th day of February, 2015

J U D G M E N T

The petitioner, who had availed of credit facilities 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.P2 is the possession notice. Ext.P3 is the auction notice posting the auction of the properties to 18.2.2015. 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.Biju Martin, the learned counsel appearing for the petitioner as also Sri.Liji J. Vadakedom, 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 petitioner is to permit him to remit the balance amounts 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.3,11,156/- together with accrued interest. Taking note of the submission of counsel for the petitioner that the petitioner proposes to raise the amount by selling a piece of property, pursuant to Ext.P4 agreement already executed by him, I direct that if the petitioner pays the entire amount of Rs.3,11,156/- together with accrued interest on or before 30.6.2015, then the recovery steps initiated against him 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 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.

(iii) The auction sale posted to today (18.2.2015) shall be deferred in view of the directions given in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp