

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 5117 of 2015 (L)

PETITIONER:

**HAZEENA NAZARUDEEN,
AGED 42 YEARS, W/O. NAZARUDEEN,
THENGUMTHARA VADAKKATHIL,
PALLISERICKAL P.O., SASTHAMCOTTA,
KOLLAM DISTRICT.**

**BY ADVS.SRI.VINOY VARGHESE KALLUMOOTTILL
SMT.S.S.SAILAKSHMI**

RESPONDENT(S):

- 1. AUTHORIZED OFFICER,
KERALA STATE CO-OPERATIVE BANK LTD.,
REGIONAL OFFICE, THIRUVANANTHAPURAM-695 001.**
- 2. KERALA STATE CO-OPERATIVE BANK LTD.,
KOLLAM BRANCH, REPRESENTED BY ITS MANAGER,
KWA BUILDING, ANANDAVALLISWARAM,
KOLLAM-691 001.**

BY SRI.GEORGE POONTHOTTAM, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 5117 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS:

**P1 : TRUE COPY OF THE REGISTERED POST ADDRESS TO THE
 PETITIONER.**

P2 : TRUE COPY OF THE SALE NOTICE DATED 9.1.2015.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5117 OF 2015 (L)

Dated this the 24th day of February, 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. Accordingly, proceedings were initiated by the respondent bank under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act'. Ext.P2 is the sale notice that was issued by the respondent bank posting the sale on 19.2.2015. The sale notice is dated 9.1.2015. The petitioner approached this Court on 18.2.2015, one day prior to the date of the sale. In the writ petition, the petitioner had sought for installments to pay the default amounts to the respondent bank. Taking note of the submission of counsel for the petitioner, this Court had, on 18.2.2015, directed further proceedings pursuant to Ext.P2 notice to be kept in abeyance, on condition that the petitioner paid an amount of Rs.1,00,000/- on or before 23.2.2015. It is now brought to my notice that the petitioner has not complied with the direction to deposit Rs.1,00,000/-, which was the basis for the deferment of the

sale that was posted on 19.2.2015.

2. I have heard Sri.Vinoy Varghese Kallummoottil, the learned counsel appearing for the petitioner as also Sri.George Poonthottam, the learned Standing counsel appearing for the respondent bank.

3. Learned counsel for the respondent bank would submit that the conduct of the petitioner has demonstrated that she is not interested in effecting any repayment to the bank, and the writ petition is filed only to delay the recovery proceedings initiated by the respondent bank, and amounts to an abuse of process of the court. I take note of the said submissions of counsel for the respondent bank and find that the petitioner has not demonstrated any bone fides in the matter of settlement of dues to the respondent bank. I therefore find no reason to exercise the discretionary jurisdiction of this Court under Article 226 of the Constitution of India, in her favour. The writ petition fails, and is accordingly dismissed.

I make it clear that the respondent bank will be free to continue with the sale proceedings, as notified in Ext.P2 sale notice, on a

deferred date, by merely intimating the petitioner of the date of sale and without having to comply with the procedure of issuing a fresh sale notice to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp