

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No.5122 of 2015 (M)

PETITIONERS:

1. **LEELA.T,W/O.RAMAN KUTTY,AGED 63 YEARS,
THALIYIL HOUSE,THEKKUM BHAGAM,
AZHIKODE SOUTH,KANNUR DISTRICT.**
2. **SHAJI.T,S/O.RAMAN KUTTY,AGED 40 YEARS,
HALIYIL HOUSE,THEKKUM BHAGAM,
AZHIKODE SOUTH,KANNUR DISTRICT.**
3. **RAJAN.T,S/O.RAMAN KUTTY,AGED 44 YEARS,
THALIYIL HOUSE,THEKKUM BHAGAM,
AZHIKODE SOUTH,KANNUR DISTRICT.**
4. **SHYMA.T,D/O.RAMAN KUTTY,AGED 42 YEARS,
THALIYIL HOUSE,THEKKUM BHAGAM,
AZHIKODE SOUTH,KANNUR DISTRICT.**
5. **MINI,D/O.RAMANKUTTY,AGED 38 YEARS,
THALIYIL HOUSE,THEKKUM BHAGAM,
AZHIKODE SOUTH,KANNUR DISTRICT.**

BY ADV.SRI.C.K.SREEJITH

RESPONDENT:

**KANNUR DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE AT KANNUR,REP.BY ITS AUTHORISED OFFICER
SRI.C.V.JANARDHANAN,SENIOR MANAGER,
HEAD OFFICE,KANNUR-670001.**

BY SMT.MEENA JOHN,SC,KANNUR DIST. CO.OP.BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No.5122 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT-P1:THE TRUE COPY OF THE ORDER PASSED IN CMP.NO.5761/2014 ON
THE FILE OF HON'BLE CHIEF JUDICIAL MAGISTRATE,THALASSERY.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 5122 of 2015

Dated this the 12th day of March, 2015

JUDGMENT

The petitioners, who had availed 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 order issued by the Chief Judicial Magistrate Court, Thalassery. 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.C.K.Sreejith, the learned counsel appearing on behalf of the petitioners and also Smt.Meena John, 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.₹ 4,91,246/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.₹ 4,91,246/- together with accrued interest in six equal and successive monthly installments commencing from 27.03.2015, and continue to keep up the regular installment payments as per the original loan schedule, then 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE