

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 5548 of 2015 (P)

PETITIONER(S):

**MRS.SUBAIDA, AGED 44,
W/O.K.MUHAMMED, KARIMKURAYIL HOUSE,
THOZHUVANNUR POST,
VALANCHERI, MALAPPURAM.**

**BY ADV. SRI.P.V.GEORGE (PUTHIYE WWW
DAM)**

RESPONDENT(S):

- 1. THE DHANLAXMI BANK LTD.,
VALANCHERY BRANCH,
REPRESENTED BY BRANCH MANAGER, CALICUT ROAD,
VALANCHERY P.O., MALAPPURAM - 676 552.**
- 2. THE AUTHORIZED OFFICER,
CHIEF MANAGER, THE DHANLAXMI BANK LTD.,
VALANCHERY BRANCH, CALICUT ROAD, VALANCHERY P.O.,
MALAPPURAM - 676 552.**

BY SRI.C.K.KARUNAKARAN,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 5548 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1 - TRUE COPY OF THE STATEMENT OF CASH CREDIT LOAN FOR THE PERIOD
26-12-2013 TO 30-12-2014 ISSUED BY 1ST RESPONDENT.**

**EXT.P2 - TRUE COPY OF THE STATEMENT OF ACCOUNT OF TERM LOAN FOR THE
PERIOD 25-12-2013 TO 12-12-2013.**

**EXT.P3 - TRUE COPY OF CMP NO.2498/2014 FILED UNDER SECTION 14(1) BEFORE
THE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI.**

EXT.P4 - TRUE COPY OF THE AFFIDAVIT FILED ALONG WITH EXHIBIT P3.

**EXT.P5 - TRUE COPY OF THE ORDER DATED 19-12-2014 PASSED BY THE CHIEF
JUDICIAL MAGISTRATE COURT, MANJERI.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5548 OF 2015

Dated this the 23rd day of February, 2015

J U D G M E N T

The petitioner, who stood as guarantor to the loan advanced to her husband, was proceeded against by the respondent bank when the husband defaulted in repayment of the loan. 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.P5 is the copy of the order passed by the Chief Judicial Magistrate Court, Manjeri. 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.P.V.George, the learned counsel appearing on behalf of the petitioner as also Sri.C.K.Karunakaran, 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 her 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 amount outstanding from the petitioner to the respondent bank, as of today, is stated to be approximately Rs.11,41,200/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.11,41,200 /-, together with accrued interest, in ten equal and successive monthly instalments commencing from 10.03.2015, then the further proceedings for recovery of loan amounts from the petitioner shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the instalments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

