

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. 5678 of 2015 (H)

PETITIONER(S):

1. **BASHEER, AGED 48 YEARS,
S/O.KOYAKUTTY, ILLATHUPARAMBIL HOUSE,
THANOOR P.O., CHIRAKKAL,
MALAPPURAM DIST., PIN - 676302.**
2. **ABOOBAKER, AGED 78 YEARS,
S/O.KOYAKUTTY, ILLATHUPARAMBIL HOUSE,
THANOOR P.O., CHIRAKKAL,
MALAPPURAM DIST., PIN - 676302.**

BY ADV. SMT.T.B.MINI

RESPONDENT(S):

1. **GENERAL MANAGER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK,
P.B.NO.8 , MALAPPURAM, PIN - 676505.**
2. **MANAGER, MALAPPURAM DISTRICT
CO-OPERATIVE BANK BRANCH OFFICE,
THANOOR P.O., CHIRAKKAL, PIN - 676302.**
3. **DEPUTY GENERAL MANAGER/AUTHORIZED OFFICER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, UPHILL, MALAPPUAM - 676505.**

BY SRI.ESM.KABEER, SC

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

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF DISCHARGE SUMMARY OF 2ND PETITIONER.
- P2: TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER DATED 20.1.2015 IN C.M.P.4186/2014 FILED BEFORE
THE CJM COURT, MANJERI.
- P3: TRUE COPY OF NOTICE ISSUED BY THE 2ND RESPONDENT BANK
DATED 28.11.11.
- P4: TRUE COPY OF PAPER PUBLICATION ISSUED BY THE RESPONDENT
BANK IN MATHRUBHUMI DAILY DATED 21.12.2012.
- P5: TRUE COPY OF THE SALE NOTICE ISSUED BY RESPONDENT BANK
DATED 25.9.2013.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.5678 of 2015

.....
Dated this the 23rd day of February, 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.P2 is the notice issued by the Advocate Commissioner under the SARFAESI Act. Ext.P5 is the sale notice issued by the respondent bank. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Smt.T.B.Mini, the learned counsel appearing on behalf of the petitioners as also Sri.E.S.M.Kabeer, the learned Standing counsel for the respondents.

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 instalments. Taking into

account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioners to the respondent bank, as of today, is stated to be Rs.1,77,928/- together with accrued interest and other charges. Accordingly, if the petitioners pay the aforesaid amount of Rs.1,77,928 /-, together with accrued interest and other charges, in ten equal and successive monthly instalments commencing from 10.03.2015, then further proceedings for recovery of loan amounts from the petitioners shall be kept in abeyance.

(ii) It is made clear that if the petitioners commit a default in respect of any of the instalments, 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

