

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 5832 of 2015 (D)

PETITIONER(S):

- 1. RANISH K.A., AGED 31 YEARS,
S/O.APPU K.K., KOCHERI HOUSE, EDAKKULAM P.O.,
IRINJALAKUDA, THRISSUR DISTRICT.**
- 2. APPU K.K., AGED 63 YEARS,
KOCHERI HOUSE, EDAKKULAM P.O., IRINJALAKUDA,
THRISSUR DISTRICT.**

**BY ADVS.SRI.RAJESH CHAKYAT
SMT.B.L.RENJU**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
SUDARAM BNP PARIBAS HOME FINANCE LIMITED, 3RD FLOOR,
FAIR TRADE CENTER, TUDA ROAD, ASWAI JUNCTION,
THIRUVAMBADI P.O., THRISSUR DISTRICT.**
- 2. SUDARAM BNP PARIBAS HOME FINANCE LIMITED,
3RD FLOOR, FAIR TRADE CENTER, TUDA ROAD,
ASWAI JUNCTION, THIRUVAMBADI P.O.,
THRISSUR DISTRICT, REPRESENTED BY ITS BRANCH MANAGER.**

BY ADV. SRI.VARGHESE C.KURIAKOSE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 5832 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1: A TRUE COPY OF THE RELEVANT PAGES OF THE BANK STATEMENT
FROM 01.04.2014 TO 06.03.2014.**

**EXHIBIT-P2: A TRUE COPY OF THE DISCHARGE CARD ISSUED FROM MEDICAL
COLLEGE, THRISSUR.**

**EXHIBIT-P3: A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 30.10.2014.**

**EXHIBIT-P4: A TRUE COPY OF THE NOTICE DATED 06.02.2015 ISSUED BY THE
ADVOCATE COMMISSIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.5832 of 2015 (D)
.....

Dated this the 24th day of March, 2015

JUDGMENT

The 1st petitioner, who had availed of a housing loan from the 2nd respondent, and the 2nd petitioner, who stood as a guarantor and created equitable mortgage on their property, defaulted in repayment of the same. Consequently, the respondent initiated proceedings under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', against the petitioners. Ext.P4 is the notice, issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Thrissur, to take possession of the immovable property that was offered as security to the respondents, for the loan availed by the petitioners. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Rajesh Chakyat, the learned counsel appearing for the petitioners and Sri.Varghese C.Kuriakose, the learned Standing counsel appearing 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 total overdue amount to the respondents 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 housing loan is stated to be Rs.1,28,880/-, together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.1,28,880/-, together with accrued interest, in four equal and successive monthly installments commencing from 10.04.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him by the respondents 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 respondents will be free to continue the recovery proceedings against them from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

