

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 6079 of 2015 (H)

PETITIONER(S):

**RADHA AGED 51 YEARS
WIFE OF SWAMINATHAN, KANNATH HOUSE, PANYUR POST
POLPULLY, PALAKKAD - 678 552.**

**BY ADVS.SRI.JACOB SEBASTIAN
SMT.SHAMSEERA. C.ASHRAF
SMT.ANU JACOB
SRI.T.U.SUJITH KUMAR**

RESPONDENT(S):

**DENA BANK
REPRESENTED BY ITS AUTHORISED OFFICE, DENA BANK
PALAKKAD BRANCH, FIRST FLOOR, SURYA CITY
SUDEVAN ROAD, SULTANPET, PALAKKAD 678 001.**

**R. BY ADV. SRI.PHILIP T.VARGHESE
R. BY ADV. SRI.THOMAS T.VARGHESE
R. BY ADV. SMT.ACHU SUBHA ABRAHAM
R. BY ADV. SMT.K.R.MONISHA
R. BY ADV. SRI.BOBY C. BABY
R. BY ADV. SRI.ANOOP BHASKAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 6079 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- A TRUE COPY OF THE POSSESSION NOTICE DATED JANUARY 17 2015
ISSUED BY THE RESPONDENT**

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 6079 of 2015

Dated this the 19th day of March, 2015

JUDGMENT

The petitioner, who had availed of an overdraft facility 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 possession notice issued to the petitioner under Section 13(2) of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the overdue amounts.

2. I have heard Sri.Jacob Sebastian, the learned counsel appearing on behalf of the petitioner as also the learned Standing Counsel appearing on behalf of 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 petitioner is to permit her to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I

dispose the writ petition with the following directions:-

- (i) The total overdue amount, from the petitioner to the respondent bank, is stated to be Rs.3,14,860/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.3,14,860/- together with accrued interest in six equal and successive monthly installments commencing from 30.03.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against her by the respondent bank shall be kept in abeyance.
- (ii) It is made clear that if the petitioner commits a default in respect of any of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE