

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 6292 of 2015 (J)

PETITIONER(S) :

- 1. STELLUS P, AGED 32 YEARS
S/O.BERKUMANS, THAIVILAKAM, POZHIYOOR
POZHIYOOR P.O., THIRUVANANTHAPURAM-695513.**
- 2. SUMATHY T. @ MARY, AGED 29 YEARS
W/O.STELLUS P., THAIVILAKAM, POZHIYOOR
POZHIYOOR P.O., THIRUVANANTHAPURAM-695513.**

**BY ADVS.SRI.D.GANESH KUMAR
SMT.K.I.KAVITHA**

RESPONDENTS / RESPONDENTS 1 TO 3 IN THE WP(C) :

- 1. THE AUTHORISED OFFICER,
CHIEF MANAGER (ADVANCES (A)) STATE BANK OF TRAVANCORE
REGION II, ZONE OFFICE, KSHB BUILDING
SANTHI NAGAR, THIRUVANANTHAPURAM-695001.**
- 2. THE MANAGER,
STATE BANK OF TRAVANCORE, POZHIYOOR BRANCH
POZHIYOOR P.O., THIRUVANANTHAPURAM-695513.**

**R1 & R2 BY ADVS. SRI.SATHISH NINAN, SC
SRI.SANTHOSH MATHEW**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 6292 of 2015 (J)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1: COPY OF NOTICE UNDER SECTION 13(2) OF SECURITISATION AND RE-CONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 DATED 25.10.2013.

EXT. P2: COPY OF THE WARRANT AUTHORISING COMMISSIONER TO TAKE POSSESSION OF PROPERTY IN MC NO.1352/2014 BY THE ORDER OF CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM.

EXT. P3: PHOTOCOPY OF NOTICE DATED 6.2.2015 ISSUED BY ADVOCATE COMMISSIONER APPOINTED IN MC NO.1352/14.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 6292 of 2015

Dated this the 9th 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.P3 is the notice issued by the Advocate Commissioner pursuant to Ext.P2 order of the Chief Judicial Magistrate Court, Thiruvananthapuram. In the writ petition, petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.D.Ganesh Kumar, the learned counsel appearing on behalf of the petitioners as also Sri. Sathish Ninan, 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 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 ₹2,00,000/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of ₹ 2,00,000/- together with accrued interest in six equal and successive monthly installments commencing from 20.03.2015, and continues 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

das