

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 6318 of 2015 (L)

PETITIONER(S) :

1. **K.K.THUMBAN, AGED 59 YEARS
S/O. AYYAPPAN, KALLUVETTUKUZHAYIL HOUSE
ERANELLOOR, OZHUR P.O.,
MALAPPURAM DISTRICT.**
2. **P.P. THANKAM
AGED 55 YEARS, W/O. K.K, THUMBAN
KALLUVETTUKUZHAYIL HOUSE
ERANELLOOR, OZHUR P.O.,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.A.ANAS
SRI.S.SHAJAHAN (ADOOR)**

RESPONDENT :

**MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED
MALAPPURAM, REPRESENTED BY ITS GENERAL MANAGER
HEAD OFFICE, UP HILL, MALAPPURAM – 676 505.**

BY ADV. SRI. E.S.M. KABEER, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 6318 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS :

**EXT.P1 : COPY OF THE PETITION FILED BY THE RESPONDENT BEFORE THE
CHIEF JUDICIAL MAGISTRATE COURT, MANJERI**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6318 OF 2015

Dated this the 27th 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. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.K.A.Anas, the learned counsel appearing on behalf of the petitioners as also Sri.E.S.M.Kabeer, the learned Standing counsel appearing on behalf of 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 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, is stated to be Rs.3,56,946/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.3,56,946/-, together with accrued interest, in 10 equal and successive monthly instalments commencing from 20.03.2015, then the 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

