

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 6512 of 2015 (L)

PETITIONER :

**GADVIN STUART, AGED 51 YEARS,
S/O.SELVANAYAKOM, GADVIN BHAVAN, THENGUMTAKIDI
MANNOR, KILIYOOR, TRIVANDRUM.**

**BY ADVS.SRI.C.S.MANILAL
SRI.S.NIDHEESH**

RESPONDENTS :

- 1. THE CHIEF MANAGER, STATE BANK OF INDIA,
RACPC BRANCH, TRIVANDRUM - 695121**
- 2. THE BRANCH MANAGER
STATE BANK OF INDIA, NEYYATTINKARA BRANCH,
TRIVANDRUM - 695121**
- 3. THE AUTHORIZED OFFICER
RACPC, STATE BANK OF INDIA, LMS COMPOUND
TRIVANDRUM - 695121**

BY SRI.R.S.KALKURA, SC, SBI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE COPY OF THE LOAN SANCTION DOCUMENT.
- EXT.P2 : TRUE COPY OF THE LETTER ISSUED FROM THE BANK.
- EXT.P3 : TRUE COPY OF THE DEATH CERTIFICATE DT.1-1-2014.
- EXT.P4 : TRUE COPY OF THE OUT PATIENT RECORD DT.3-12-14.
- EXT.P5 : TRUE COPY OF THE MEDICAL CERTIFICATE DT.6-11-14.
- EXT.P6 : TRUE COPY OF THE DISCHARGE SUMMARY DT.20-11-14.
- EXT.P7 : TRUE COPY OF THE RECEIPT DT.28-2-13.
- EXT.P8 : TRUE COPY OF THE RECEIPT DT.8-3-13.
- EXT.P9 : TRUE COPY OF THE RECEIPT DT.5-10-13.
- EXT.P10 : TRUE COPY OF THE AFFIDAVIT AND PETITION IN MC 1162/14 ON THE
FILE OF CJM, TRIVANDRUM.
- EXT.P11 : TRUE COPY OF THE ORDER IN MC 1162/14 ON THE FILE OF CJM,
TRIVANDRUM DT.6-11-14.
- EXT.P12 : TRUE COPY OF THE ORDER IN MC 1162/14 ON THE FILE OF CJM,
TRIVANDRUM DT.6-2-15.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6512 of 2015

.....
Dated this the 11th day of March, 2015

J U D G M E N T

The petitioner, 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. Exts.P11 and P12 are the orders passed by the Chief Judicial Magistrate, Trivandrum, directing the possession of the secured asset to be taken over. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing counsel for 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 petitioner is to permit him to remit the balance amounts outstanding to the bank in easy instalments. 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 in respect of the loan availed by the petitioner is stated to be Rs.1,20,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,20,000/- together with accrued interest in two equal and successive monthly instalments commencing from 27.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 instalments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

