

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 6585 of 2015 (W)

PETITIONER(S):

- 1. KARUNAKARAN T.N., AGED 70 YEARS,
S/O.NANU, RESIDING AT THATTAMPARAMBIL,
VILLOONNI P.O., KOTTAYAM DISTRICT-686 008.**
- 2. SARITHA M., AGED 37 YEARS,
D/O.KARUNAKARAN, RESIDING AT IKARAPARAMBIL,
MANNANAM P.O., KOTTAYAM DISTRICT-686 561.**

**BY ADVS.SRI.K.B.DAYAL,
SRI.SIBI KARUN,
SRI.S.MOHAMMED FEBIN.**

RESPONDENT(S):

**THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LIMITED,
HEAD OFFICE, KOTTAYAM-686 008,
REPRESENTED BY ITS AUTHORISED OFFICER.**

BY ADV. SRI.SUNIL CYRIAC, SC.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:

EXT P1 : PHOTOSTAT COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 23-02-2015 IN CMP NO.3869/2014 ON THE FILE OF THE LEARNED CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM.

EXT P2 : PHOTOSTAT COPY OF THE COMPLAINT AND AFFIDAVIT FILED BY THE RESPONDENT IN CMP NO.3869/2014 ON THE FILE OF THE LEARNED CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM.

EXT P3 : PHOTOSTAT COPY OF THE DISCHARGE SUMMARY OF THE 1ST PETITIONER ISSUED BY THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM, DATED 02-11-2010.

EXT P4 : PHOTOSTAT COPY OF THE DISCHARGE SUMMARY OF THE WIFE OF THE 1ST PETITIONER ISSUED BY THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM, DATED 14-04-2014.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6585 OF 2015 (W)

Dated this the 3rd day of March, 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. Ext.P1 is the notice issued by the Advocate Commissioner pursuant to the direction issued by the Chief Judicial Magistrate Court, Kottayam. 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.B.Dayal, the learned counsel appearing for the petitioners as also Sri.Sunil Cyriac, the learned Standing counsel appearing 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 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 loans availed by the petitioners, is stated to be Rs.1,72,639/- together with accrued interest. Accordingly, if the petitioners pay the above amount together with accrued interest in seven equal and successive monthly installments commencing from 16.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp