

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. 6698 of 2015 (J)

PETITIONER(S):

**N.PADMANABHAN, AGED 59 YEARS
S/O.NARAYANAN NAIR, NEDUMPILLY HOUSE
VATTATHANY, K.PURAM P.O, TANALUR (VIA), MALAPPURAM.**

BY ADV. SRI.SAJU.S.A

RESPONDENT(S):

- 1. MALAPPURAM DISTRICT CO-OPERATIVE BANK
REPRESENTED BY ITS SECRETARY, UP HILL
MALAPPURAM - 676 505.**
- 2. MALAPPURAM DISTRICT CO-OPERATIVE BANK
TANUR BRANCH
REPRESENTED BY ITS BRANCH MANAGER, TANUR
MALAPPURAM DISTRICT - 676 302.**
- 3. AUTHORISED OFFICER
DEPUTY GENERAL MANAGER
MALAPPURAM DISTRICT CO-OPERATIVE BANK, UP HILL
MALAPPURAM - 676 505.**
- 4. THE BRANCH MANAGER
MALAPPURAM DISTRICT CO-OPERATIVE BANK
TANUR BRANCH, REPRESENTED BY ITS BRANCH MANAGER
TANUR, MALAPPURAM 676302.**

BY SRI.ESM.KABEER

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

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE NOTICE DATED 10TH OCTOBER 2011 ISSUED TO
 THE PETITIONER BY THE 3RD RESPONDENT**
- EXT.P2 - TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
 COMMISSIONER DATED 18-2-2015**
- EXT.P3 - TRUE COPY OF THE REPRESENTATION DATED 28-2-2015 SUBMITTED
 BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6698 OF 2015

Dated this the 3rd 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. Ext.P2 is the notice issued by the Advocate Commissioner under the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.S.A.Saju, the learned counsel for the petitioner and 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 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 amount outstanding from the petitioner to the respondent bank, in respect of the loan is stated to be Rs.6,29,623/- together with accrued interest and other charges. Accordingly, if the petitioner pays the aforesaid amount of Rs.6,29,623 /- together with accrued interest and other charges in 10 equal and successive monthly instalments commencing from 20.03.2015, then the further proceedings for recovery of loan amounts from the petitioner 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

