

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 6900 of 2015 (J)

PETITIONER(S) :

**SHIBU T.V., AGED 33 YEARS,
S/O.KUNHADI, MULLANMADAKKAL HOUSE, OORNAGTTIRI P.O.,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT(S) :

**THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
MALAPPURAM, REPRESENTED BY ITS GENERAL MANAGER
(AUTHORISED OFFICER), HEAD OFFICE, UPHILL,
MALAPPURAM, PIN - 676 505.**

BY ADV. SRI.ESM.KABEER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 6900 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE INSPECTION NOTICE DATED 25.02.2015 GIVEN BY
THE ADVOCATE COMMISSIONER IN C.M.P.NO.3937/2014 OF THE CHIEF
JUDICIAL MAGISTRATE, MANJERI.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.6900 of 2015

.....
Dated this the 10th 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.P1 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Manjeri, to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. 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.Babu S.Nair, the learned counsel appearing on behalf of the petitioner as also Sri.E.S.M.Kabeer, 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 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, is stated to be Rs.1,91,049/-. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,91,049/-, together with accrued interest, in 10 equal and successive monthly instalments commencing from 25.03.2015, 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 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

