

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7128 of 2015 (M)

PETITIONER(S):

1. **SASANKAN K.V,
S/O VIJAYAN K. PILLAI, AGED 37,
KOCHUPARAMBIL HOUSE, PERUMPATTA ROAD,
ELAMAKKARA, ERNAKULAM, COCHIN - 682 026.**
2. **VIJAYAN K PILLAI, S/O BALAKRISHNA PILLAI,
AGED 72, KOCHUPARAMBIL HOUSE,
PERUMPATTA ROAD, ELAMAKKARA, ERNAKULAM,
COCHIN - 682 026.**

**BY ADVS.SRI.K.C.ELDHIO
SRI.JIJO THOMAS
SRI.ANEESH JAMES
SRI.MALLENATHAN.M.
SRI.ANIL R.NATH**

RESPONDENT(S):

1. **SYNDICATE BANK, BRANCH AT KALOOR,
DESHABHIMANI JUNCTION, ERNAKULAM,
KALOOR P.O, COCHIN - 682 017,
RERPESENTED BY ITS CHIEF MANAGER**
2. **THE AUTHORISED OFFICER,
SYNDICATE BANK, BRANCH AT KALOOR,
DESHABHIMANI JUNCTION, ERNAKULAM,
KALOOR P.O, COCHIN - 682 017.**

BY SRI.R.S. KALKURA, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 7128 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: A TRUE COPY OF THE DEMAND NOTICE DATED 12-04-2012 ISSUED BY THE 2ND RESPONDENT UNDER THE PROVISIONS OF SARFAESI ACT.

EXHIBIT P2 : A TRUE COPY OF THE POSSESSION NOTICE DATED 26-06-2012.

EXHIBIT P3: A TRUE COPY OF THE INTERIM ORDER GRANTED BY THE DRT, ERNAKULAM IN I.A NO. 2256/2012 IN SA 663/2012.

EXHIBIT P4 : A TRUE COPY OF THE SAID ORDER DATED 12-08-2013 OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

EXHIBIT P5: A TRUE COPY OF THE JUDGMENT DATED 29-10-2013 IN WPC NO 26464 OF 2013.

EXHIBIT P6: A TRUE COPY OF THE PROPOSAL FOR ONETIME SETTLEMENT DATED 28-11-2013.

EXHIBIT P7 : A TRUE COPY OF THE NOTICE DATED 05-02-2015 ISSUED BY THE ADVOCATE COMMISSION.

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7128 of 2015
.....

Dated this the 9th 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 copy of the demand notice issued by the 2nd respondent under the provisions of SARFAESI Act. Ext.P2 is the copy of the possession notice issued to the petitioners 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.K.C.Eldho, the learned counsel for the petitioners and Sri.R.S.Kalkura, 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, pursuant to the extension of a one time settlement option, is stated to be Rs.8,75,117/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.8,75,117/- together with accrued interest, in three equal and successive monthly instalments commencing from 25.03.2015, the recovery steps initiated against the petitioners 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 instalments, they will lose the benefit of this judgment as well as the benefit of one time settlement option granted to them by the respondent bank, 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

