

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. 7179 of 2015 (V)

PETITIONER(S):

**HAJIYARAKATH HUSSAIN,
S/O.ABDULLA, HAJIYARAKATH HOUSE,
PONNANI (P.O.), MALAPPURAM DISTRICT.**

BY ADV. SRI.JAMSHEED HAFIZ.

RESPONDENTS:

**THE VIJAYA BANK,
REPRESENTED BY ITS MANAGER,
27/215 N.M.A. ARCADE, CHANDHAPADI, PONNANI,
PIN - 679 577, MALAPPURAM DISTRICT.**

BY ADV. SMT.LATHA KRISHNAN,SC.

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

rs.

WP(C).No. 7179 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1: A TRUE COPY OF THE FINAL REMINDER DATED 04/03/2013.**
- EXT.P2: A TRUE COPY OF THE NOTICE DATED 11/11/2013 ISSUED BY
THE RESPONDENT BANK.**
- EXT.P3: A TRUE COPY OF THE NOTICE ISSUED BY THE COMMISSIONER
DATED 21/01/2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 7179 of 2015 (V)

.....
Dated this the 10th day of March, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 1st respondent Bank in the year 2011, 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', against the petitioner. Ext.P3 is the notice, issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Manjeri, to the petitioner in that regard. 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.Jamsheed Hafiz, the learned counsel for the petitioner and Smt.Latha Krishnan, the learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total amount outstanding to the bank in easy installments. 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 in respect of the loan from the petitioner to the respondent Bank is stated to be Rs.7,14,393/- together with accrued interest. Accordingly, if the petitioner pays the amount of Rs.7,14,393/- together with accrued interest in eight equal and successive monthly installments commencing from 25.03.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the Bank shall be kept in abeyance.

(ii) It is made clear that, if the petitioner commits a default in respect of any one instalment, he will lose the benefits 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/03/

