

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7652 of 2015 (F)

PETITIONER :

**ABDUL NASEER.M, S/O.KUNHAMMED,
VANNARATH HOUSE, AVADUKKA P.O.,
KOZHIKODE DISTRICT, PIN- 673 528**

**BY ADVS.SRI.P.J.MATHEW
SRI.AJITH GEORGE**

RESPONDENT(S):

- 1. KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.
(REG NO.F 1635), HEAD OFFICE, KALLAI ROAD,
P.O. CHALAPPURAM, PIN-673 002
REPRESENTED BY ITS SECRETARY.**
 - 2. THE AUTHORIZED OFFICER/SENIOR MANAGER,
KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD. (REG.NO.F 1635),
KALLAI ROAD, P.O. CHALAPPURAM, PIN- 673 002**
 - 3. THE MANAGER,
KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD. (REG.NO.F 1635),
BRANCH OFFICE, PERAMBRA, KOZHIKODE DIST- 673 001**
- R1 TO R3 BY ADV. SRI.R.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK, LTD.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 7652 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE ORDER OF SURVEY DIRECTOR DATED 17.04.2010**
- P2: TRUE COPY OF THE NOTICE TAKING POSSESSION OF LAND DATED
07.01.2013 OF THE 2ND RESPONDENT**
- P3: TRUE COPY OF THE NOTICE OF THE 3RD RESPONDENT DATED 13.02.2015**
- P4: TRUE COPY OF THE NOTICE OF INSPECTION DATED 16.02.2015**
- P5: TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER DATED
02.03.2015**

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

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.7652 of 2015 (F)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 1st respondent Bank, creating security interest over property, defaulted in re-payment 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.P2 is the possession notice issued by the 2nd respondent 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. Heard Sri.P.J.Mathew, the learned counsel appearing for the petitioner and Sri.R.Sudheesh, the learned Standing Counsel appearing for the respondents.

2. 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 total amount due 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 from the petitioner to the respondent Bank is stated to be Rs.4,14,365/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.1,00,000/- on or before 31.03.2015 and the balance amount of Rs.3,14,365/- in ten equal and successive monthly installments commencing from 20.04.2015, 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 of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/12/03/