

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. 7759 of 2015 (T)

PETITIONER(S) :

- 1. P.SATHEESH KUMAR, AGED 45 YEARS,
S/O.PARAMESWARAN NAIR, PRARTHANA,
T.C.19/2253 (3), VATTAVILA THIRUMALA P.O,
THIRUVANANTHAPURAM- 695 006.**
- 2. M.JAYALEKSHMI, AGED 40 YEARS,
W/O.P.SATHEESH KUMAR PRARTHANA, T.C.19/2253 (3), VATTAVILA,
THIRUMALA P.O, THIRUVANANTHAPURAM- 695 006.**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S
SRI.S.SUNIL NARAYANAN
SRI.RENJIT GEORGE
SMT.ANJU MOHAN
SRI.S.K.SUJITH KRISHNA
SRI. S. VISHNU**

RESPONDENT(S) :

- 1. THE CHIEF MANAGER/AUTHORIZED OFFICER,
BANK OF INDIA, ZONAL OFFICE, KALOOR TOWERS,
K.K.ROAD, KALOOR, COCHIN-682 017.**
- 2. THE BRACH MANAGER,
BANK OF INDIA, PTP NAGAR BRANCH, RANGAM,
6/1654, VETTAMUKKU, THIRUVANANTHAPURAM- 695 006.**

BY ADV. SRI.J.HARIKUMAR, S.C

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

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE TRUE COPY OF THE LOAN AGREEMENT OF THE ENTERED BETWEEN THE PETITIONER AND SECOND RESPONDENT BANK WHILE AVAILING THE SSI LOAN.
- EXT.P2: THE TRUE COPY OF THE FIR NO.487/2013 OF POOJAPPURA POLICE STATION.
- EXT.P3: THE TRUE COPY OF THE INSURANCE POLICY OF THE PETITIONERS' INDUSTRIAL UNIT VALID UP TO 12-07-2012.
- EXT.P4: A TRUE COPY OF THE LETTER DATED 26-06-2013 ISSUED BY THE RESPONDENT TO THE PETITIONER.
- EXT.P5: TRUE COPY OF THE NOTICE DATED 23-07-2013 ISSUED UNDER SECTION 13(2) OF THE SARFASI ACT BY THE 1ST RESPONDENT TO THE PETITIONERS.
- EXT.P6: THE TRUE COPY OF THE RELEVANT PAGES OF THE PASS BOOK OF THE HOUSING LOAN OF THE SECOND PETITIONER.
- EXT.P7: THE TRUE COPY OF THE LETTER DATED 11-12-2014 REQUESTING THE REGULARIZATION OF THE HOUSING LOAN ACCOUNT.
- EXT.P8: THE TRUE COPY OF REPLY DATED 17-12-2014 ISSUED TO THE PETITIONERS.
- EXT.P9: THE TRUE COPY OF THE NOTICE DATED 05-03-2015 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONERS.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.7759 of 2015
.....

Dated this the 11th 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.P5 is the notice issued under Section 13 (2) of the SARFAESI Act by the 1st respondent to the petitioners. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing counsel for 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.3,20,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,20,000/- together with accrued interest in six equal and successive monthly instalments commencing from 25.03.2015, and continues to keep up regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent bank 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

mns

