

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 7884 of 2015 (I)

PETITIONER(S):

**SMT. SOBHINI RAJAPPAN, AGED 58 YEARS,
W/O.RAJAPPAN, VARATTU VEEDU, VARATTU ROAD,
NEAR NEDUMPILLY SARPAM TEMPLE, AMBALLUR,
ERNAKULAM - 682 315.**

**BY ADVS.SRI.JIMMY GEORGE (VATTATHARA)
SRI.T.JEEJAN**

RESPONDENT(S):

- 1. CHIEF MANAGER,
AUTHORISED OFFICER, VIJAYA BANK, REGIONAL OFFICE,
1ST FLOOR, JOSE ANNEX, JOSE JUNCTION,
M.G.ROAD, ERNAKULAM-682 011.**
- 2. M/S.FOSSIL INDUSTRIES,
MILMA JUNCTION, AMBALLUR, MULAMTHURUTHI,
ERNAKULAM-682 314, REP. BY ITS PROPRIETOR,
MR.SHOBHAN RAJ.**
- 3. MR.SHOBHAN RAJ, AGED 39 YEARS,
S/O.RAJAPPAN, VARATTU VEEDU, VARATTU ROAD,
NEAR NEDUMPILLY SARPAM TEMPLE, AMBALLUR,
ERNAKULAM-682 315 AND NOW RESIDING AT NADUKUNNIL VEEDU
AMBALLOOR P.O., KANJIRAMATTOM, ERNAKULAM-682 315.**

R1 BY ADV. SMT.LATHA KRISHNAN, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 7884 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT P1 : TRUE COPY OF NOTICE UNDER SECTION 13(2) OF SARFAESI ACT ISSUED
TO THE PETITIONER BY 1ST RESPONDENT, BANK DT 21.07.2014.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 7884 of 2015

Dated this the 30th day of March, 2015

JUDGMENT

The petitioner, who stood as guarantor to a cash credit facility availed by his son from the respondent bank, is aggrieved by the steps taken by the respondent bank 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 amounts advanced to her son. Ext.P1 is the notice issued to the petitioner under Section 13(2) of 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 the learned counsel appearing on behalf of the petitioner as also 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 her to remit the balance amounts 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 overdue amount, in respect of the loan, is stated to be Rs.5,23,592/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.5,23,592/- together with accrued interest in six equal and successive monthly installments commencing from 20.04.2015, then the recovery steps initiated against her 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 installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE