

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 8264 of 2015 (G)

PETITIONER :

**AMEER HAMSA.A,
S/O.ABOOBACKER, AGED 41 YEARS, AL-SUBHA,
T.C.8/1441/26, AVRA B28, ARAYLLOOR,
THIRUMALA P.O, THIRUVANANTHAPURAM-695 013.**

BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S):

- 1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY TO THE DEPARMENT OF FINANCE,
GOVERNMENT SECRETARIAT, NEW DELHI.PIN-110 001**
- 2. FEDERAL BANK LTD.,
NANTHANCODE BRANCH, THIRUVANANTHAPURAM,
REPRESENTED BY ITS CHIEF BRANCH MANGER-695 001.**
- 3. THE AUTHORISED OFFICER (UNDER SARFAESI ACT),
FEDERAL BANK LTD., ZONAL OFFICE, STATUE,
THIRUVANANTHAPURAM -695 001.**
- 4. THE DEPUTY GENERAL MANAGER,
FEDERAL BANK LTD., ZONAL OFFICE, STATUE,
THIRUVANANTHAPURAM- 695 001.**

**R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 TO R4 BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)
SMT.SALI. P. MATHEW (MUNNAR)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 8264 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPIES OF THE NOTICE DATED 01.10.2014 ISSUED BY THE 3RD
RESPONDENT U/S.13(20 OF THE SARFAESI ACT**
- EXHIBIT P2. TRUE COPY OF THE ORDER DATED 12.12.2014 IN M.C.NO.1317/2014 OF
THE CHIEF JUDICIAL MAGISTRATE COURT,THIRUVANTHAPURAM**
- EXHIBIT P3. TRUE COPY OF THE NOTICE DATED 29.12.2014 OF THE ADVOCATE
COMMISSIONER**
- EXHIBIT P4. TRUE COPY OF THE REPRESENTATION DATED 13.03.2015 OF THE
PETITIONER**

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

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 8264 of 2015
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Dated this the 25th day of March, 2015

JUDGMENT

The petitioner, who had availed an over draft facility and a term 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 notice issued to the petitioner under Section 13(2) of the SARFAESI Act. Ext.P3 is the notice issued by the Advocate Commissioner pursuant to the direction of the Chief Judicial Magistrate Court, Thiruvananthapuram. 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 him 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 overdue interest in respect of the over draft facility, as of today, is stated to be Rs.7,01,155/-. Similarly the overdue amount in respect of the term loan is stated to be Rs.4,80,653/-. Thus, the total overdue amount in respect of both the term loan and the overdraft facility is Rs.11,81,808/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.11,81,808/- together with accrued interest in five equal and successive monthly installments commencing from 10.04.2015, and continues to keep up the regular installment payments as per the original loan schedule in the term loan account, and further complies with the formalities for continuing the overdraft facility as stipulated by the respondent bank, then the recovery steps initiated against him 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, 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

W.P.(C). No. 8264 of 2015