

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. 8505 of 2015 (K)

PETITIONER(S):

**ARUN RAJ, S/O.RAJARATNAM,
D.G. BHAVAN, PANAYARAKUNNU,
KATTACHALKUZH. P.O, VENGANOOR VILLAGE,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.BIJU BALAKRISHNAN,
SMT.V.S.RAKHEE,
SMT.PRINCY XAVIER.**

RESPONDENT(S):

- 1. THE THIRUVANANTHAPURAM DISTRICT
CO-OPERATIVE BANK, PERINGAMALA BRANCH,
KALLIYOOR. P.O, THIRUVANANTHAPURAM, PIN-695 042,
REPRESENTED BY ITS MANAGER.**
- 2. THE AUTHORIZED OFFICER,
THE THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
HEAD OFFICE, FORT, THIRUVANANTHAPURAM, PIN-695 003.**

BY ADV. SRI.T.R.HARIKUMAR, SC.

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

rs.

WP(C).No. 8505 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P-1: PHOTOSTAT COPY OF THE NOTICE DATED 01.06.2012 ISSUED BY THE 2ND RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT.

EXHIBIT P-2: PHOTOSTAT COPY OF THE POSSESSION NOTICE DATED 07-01-2015.

EXHIBIT P-3: PHOTOSTAT COPY OF THE MAHAZAR PREPARED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 8505 of 2015

Dated this the 30th day of March, 2015

JUDGMENT

The petitioner, who had availed 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.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 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 total outstanding amount, in respect of the loan, is stated to be Rs.6,90,124/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.6,90,124/- together with accrued interest in ten equal and successive monthly installments commencing from 20.04.2015, 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