

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 8510 of 2015 (K)

PETITIONER(S) :

- 1. SHEELA SURESH, AGED 52 YEARS,
W/O.LATE SURESH K.V, T.C.33/610, KOTTOLI HOUSE,
VATTIYOORKAVU, KANJIRAMPARA,
THIRUVANANTHAPURAM DISTRICT.**
- 2. SRUTHI SURESH,
D/O.LATE SURESH K.V, T.C.33/610, KOTTOLI HOUSE,
VATTIYOORKAVU, KANJIRAMPARA,
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.BECHU KURIAN THOMAS
SRI.PAUL JACOB (P)
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SRI.GEORGE A.CHERIAN
SRI.V.S.VISWAMBHARAN**

RESPONDENT(S) :

- 1. DEWAN HOUSING FINANCE CORPORATION LTD.,
1ST FLOOR, KMM BUILDING, PALARIVATTOM, NEAR HOTEL RENAI,
COCHIN- 682 025., REPRESENTED BY ITS AUTHORIZED OFFICER.**
- 2. AUTHORIZED OFFICER,
DEWAN HOUSING FINANCE CORPORATION LTD.,
1ST FLOOR, KMM BUILDING, PALARIVATTOM, NEAR HOTEL RENAI,
COCHIN- 682 025.**

**BY ADVS. SRIS.P.PAULCHAN ANTONY
SRI.G.AJITH KUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

WP(C).No. 8510 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE NOTICE DATED 03.09.2014 ISSUED UNDER
SECTION 13(2) OF THE SARFAESI ACT, 2002.**

**EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 11.11.2014 ISSUED UNDER
SECTION 13(4) OF THE SARFAESI ACT, 2002.**

**EXHIBIT P3: TRUE COPY OF THE POSSESSION NOTICE DATED NIL ISSUED BY
THE RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 8510 of 2015
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Dated this the 24th day of March, 2015

JUDGMENT

The petitioners, 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 petitioners under Section 13(2) of the SARFAESI Act and Ext.P2 is the possession notice. 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 petitioners as also the learned Standing Counsel appearing on behalf of the respondents.

3. It is submitted by the learned counsel for the petitioners that the respondent bank has already taken possession of the secured asset.

4. 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 petitioners 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 petitioners, I dispose the writ petition with the following directions:-

- (i) The total overdue amount, in respect of the loan, is stated to be Rs.6,75,000/- together with accrued interest. Accordingly, if the petitioners remit an amount of Rs.5,00,000/- on 25.03.2015, and remit the balance amount of Rs.1,75,000/- together with accrued interest on or before 30.04.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them by the respondent bank shall be kept in abeyance.
- (ii) I make it clear that on the petitioners paying the sum of Rs.5,00,000/- on 25.03.2015 to the respondent bank, the respondent bank shall forthwith restore the possession of the secured asset to the petitioners.
- (iii) It is made clear that if the petitioners commit default in the aforesaid conditions, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

The submission of the learned counsel for the petitioner that the securitisation application filed before the Debt Recovery Tribunal will be withdrawn, is also recorded.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das