

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 8543 of 2015 (P)

PETITIONER(S):

**JOHN D'SILVA @ TONY, AGED 54 YEARS
S/O.LEANDER D'SILVA, HOUSE NO.XIV/562-A
KUNNUNGALTHARA (H), CHULLIKKAL, KOCHI.**

BY ADV. SMT.G.VIDYA

RESPONDENT(S):

**CORPORATION BANK
REPRESENTED BY THE AUTHORISED OFFICER
VARAPUZHA BRANCH, THENOMKODATH BUILDING, VARAPUZHA PO
ERNAKULAM - 683 517.**

R1 BY ADV.SRI.N.RAJENDRAN, SC, CORPORATION BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 8543 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT BANK
DATED 25.05.2013.**

**EXT.P2: TRUE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN
WP(C)NO.13428/2013, DATED 31.05.13.**

**EXT.P3: TRUE COPY OF THE SALE NOTICE ISSUED BY THE RESPONDENT BANK
DATED 09.02.2015.**

**EXT.P4: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER DATED 25.02.2015.**

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8543 OF 2015 (P)

Dated this the 20th day of March, 2015

J U D G M E N T

The petitioner, who had availed of two loans from the respondent company, defaulted in repayment of the same. Consequently, the respondent 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.P3 is the sale notice issued by the respondent bank. 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 for the petitioner as also the learned Standing counsel appearing 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 respondent company 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 amount outstanding from the petitioner to the respondent bank, is stated to be Rs.11,11,327/- together with accrued interest. Accordingly, if the petitioner pays the above amount of Rs.11,11,327/- together with accrued interest in ten equal and successive monthly installments commencing from 30.3.2015, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) On payment of the first installment, as directed above, it will be open to the petitioner to approach the respondent bank with a representation seeking waiver of interest and other reliefs. If such a representation is preferred before the respondent bank, the respondent shall consider the same and pass orders thereon within a period of one month thereafter. If the petitioner is granted any relief, then the petitioner's liability shall be reduced to that extent.

(iii) 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp