

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C) .No. 8617 of 2015 (B)

PETITIONER(S) :

R. VALSALAN,
AGED 47 YEARS, S/O.RAJAYYAN,
REMANI VHAVAN, ERUMAKUZHI,
KOTTUR P.O., KATTAKADA,
THIRUVANANTHAPURAM DIST, PIN - 695 574.

BY ADVS.SRI.ABRAHAM MATHEW (VETTOOR)
SRI.SRI.ANIL ABHEY JOSE.

RESPONDENT(S) :

1. THE AUTHORIZED OFFICER,
KERALA STATE CO-OPERATIVE BANK LTD,
REGIONAL OFFICE,
THIRUVANANTHAPURAM, PIN - 695 001.
2. BRANCH MANAGER,
KERALA STATE CO-OPERATIVE BANK LTD.,
OVER BRIDGE BRANCH,
THIRUVANANTHAPURAM, PIN - 695 001.

BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BANK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1 A TRUE COPY OF POSSESSION NOTICE DATED 14-01-2013.

EXHBIIT P2 A TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT FOR AN AMOUNT OF RS. 2,50,000/- DATED 03-
04-2014.

EXHIBIT P3 A TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT FOR AN AMOUNT OF 30,000/- DATED 02-07-
2014.

EXHBIIT P4 A TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT FOR AN AMOUNT OF RS.30,000/- DATED 24-11-
2014.

EXHBIIT P5 A TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT FOR AN AMOUNT OF RS. 20,000/- DATED 01-
01-2015.

EXHIBIT P6 A TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT FOR AN AMOUNT OF RS.25,000/- DATED
12-02-2015.

EXHIBIT P7 A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST
RESPONDENT TO THE PETITIONER DATED 02-02-2015.

EXHBIIT P8 A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST
RESPONDENT TO THE PETITIONER DATED 26-02-2015.

EXHBITI P9 A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST
RESPONDENT TO THE PETITIONER DATED 21-03-2015

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 8617 of 2015 (B)

.....
Dated this the 18th day of March, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 2nd respondent Bank in the year 2010, defaulted in re-payment 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', against the petitioner. Ext.P1 is the possession notice issued under Section 13(2) and Ext.P9 is the sale notice issued under Section 13(4) of SARFAESI Act to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Abraham Mathew, the learned counsel appearing for the petitioner and Sri.George Poonthottam, the learned Standing counsel appearing for 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 total overdue amount 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.4,00,400/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.4,00,400/- together with accrued interest, in ten equal and successive monthly instalments commencing from 27.03.2015, and continues to pay the regular monthly installments as per the original loan schedule, 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

AMV/19/03/