

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. 8622 of 2015 (C)

PETITIONER(S):

- 1. MUHAMMED SHAFI, S/O.HAMSA,
AGED 38 YEARS, KOTTAPPURATHU HOUSE,
VALIYAKKUNNU P.O, MALAPPURAM DISTRICT.**
- 2. K.HAMSA, S/O.AHAMMED KUTTY,
AGED 58 YEARS, KOTTAPPURATHU HOUSE,
VALIYAKKUNNU P.O, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.T.S.RAJAN
SRI.K.ABDUL HAKEEM**

RESPONDENT(S):

- 1. AUTHORISED OFFICER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
MALAPPURAM P.O,
MALAPPURAM DISTRICT, PIN - 676 505.**
- 2. BRANCH MANAGER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
VALANCHERRY BRANCH, VALANCHERRY P.O,
MALAPPURAM DISTRICT, PIN - 676 552.**

BY SRI.ESM.KABEER, SC

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

mbr/

WP(C).No. 8622 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1 : TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER DATED 5/3/2015.**

EXT.P1(A) : READABLE COPY OF THE EXT P1.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 8622 of 2015 (C)

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

JUDGMENT

The 1st petitioner, who had availed of an overdraft facility from the 2nd respondent Bank, and the 2nd petitioner, who stood as a guarantor and created equitable mortgage on their property, defaulted in re-payment of the same. When the petitioners became defaulters, the respondents initiated revenue recovery proceedings for recovery of the defaulted installments. Ext.P1 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Manjeri, to take possession of the immovable property that was offered as security to the respondent Bank, for the loan availed by the petitioners. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.T.S.Rajan, learned counsel appearing for the petitioners and Sri.ESM Kabeer, 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 petitioners is to permit them to remit the total amount 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 amount outstanding to the respondent Bank is stated to be Rs.22,95,980/-, together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.22,95,980/-, together with accrued interest in twelve equal and successive monthly instalments commencing from 30.03.2015; then, the recovery steps initiated against them by the respondent bank shall be kept in abeyance.
- ii. It is made clear that, if the petitioners commit a default in respect of any of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/19/03/