

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8683 of 2015 (I)

PETITIONER :

**SUKUMARAN, AGED 47 YEARS,
S/O.BHASKARAN, PLAVILAMOOLA VEEDU,
NUCHIYOOR, CHENKAL.P.O., NEYYATTINKARA.**

**BY ADVS.SRI.D.SAJEEV
SMT.LIGEY ANTONY**

RESPONDENT(S):

- 1. THE NEYYATTINKARA CO-OPRATIVE URBAN BANK LTD.NO.931,
NEYYATTINKARA, REPRESENTED BY ITS BRANCH MANAGER-695 121**
- 2. THE AUTHORIZED OFFICER, NEYYATTINKARA CO-OPERATIVE
URBAN BANK LTD.NO.931, NEYYATTINKARA,
THIRUVANANTHAPURAM-695 121**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.8683/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER DATED 07/11/2013 IN M.C.NO.754 OF 2013 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.
- P2 COPY OF THE JUDGMENT DATED 07/01/2014 IN WP(C).NO.545 OF 2014 BEFORE THIS HONOURABLE COURT
- P3 COPY OF THE RECEIPT DATED 10/02/2014 ISSUED BY THE 1ST RESPONDENT EVIDENCING THE PAYMENT OF RS.20,000/-
- P3(A) COPY OF THE RECEIPT DATED 16/07/2014 EVIDENCING THE PAYMENT OF RS.15,000/-
- P3(B) COPY OF THE RECEIPT DATED 17/10/2014 EVIDENCING THE PAYMENT OF RS.15,000/-
- P3(C) COPY OF THE RECEIPT DATED 27/11/2014 EVIDENCING THE PAYMENT OF RS.10,000/-
- P4 COPY OF THE NOTICE DATED 09/02/2015 ISSUED TO THE WIFE OF THE PETITIONER.
- P5 COPY OF THE NOTICE DATED 09/02/2015 ISSUED TO THE WIFE OF THE PETITIONER.
- P6 COPY OF THE REPRESENTATION DATED 02/03/2015 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P7 COPY OF THE DEATH CERTIFICATE OF SASIKALA, THE WIFE OF THE PETITIONER DATED 26/02/2015 ISSUED BY THE THIRUVANANTHAPURAM CORPORATION.

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.S.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8683 OF 2015 (I)

Dated this the 19th day of March, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the respondent bank, defaulted in repayment of the same. When 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, the petitioner had approached this Court seeking permission to regularise the loan account in installments. In W.P.(C).No.545/2015 that was filed by the petitioner seeking the said relief, this Court, by Ext.P2 judgment, permitted the petitioner to pay the overdue amount in four equal monthly installments commencing from 15.2.2014 while at the same time continuing to keep up the regular installments which the petitioner was otherwise obliged to pay in terms of the loan schedule. Counsel for the petitioner would submit that although he made the payments that were required to be made in Ext.P2 judgment, the said payments were not made within the time granted in Ext.P2 judgment. In that sense, therefore, there was no

compliance with the direction in Ext.P2 judgment. In the present writ petition, the petitioner has sought for substantially the same relief as was sought for earlier in the writ petition that was disposed by Ext.P2 judgment. Under such circumstances, I am of the view that the petitioner is not entitled to claim the discretionary relief of this Court in proceedings under Article 226 of the Constitution of India. Resultantly, the writ petition fails, and is accordingly dismissed as not maintainable.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp