

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. 8869 of 2015 (G)

PETITIONER(S):

**N. SREEKUMAR, AGED 50 YEARS,
S/O.NATARAJAN, PROPRIETOR, INCHCAPE MARKETING
TCNO.43/989, MURUKA BHAVAN, MANACAUD P.O,
TRIVANDRUM.**

**BY ADVS.SRI.M.K.ABOOBACKER
SRI.D.M.NOWFAL**

RESPONDENT(S):

**THE ASSISTANT GENERAL MANAGER,
STATE BANK OF INDIA, STRESSED ASSETS RECOVERY BRANCH
1ST FLOOR SANGAMAM, GENERAL HOSPITAL ROAD,
TRIVANDRUM- 695 001.**

BY SRI.R.S.KALKURA, SC, SBI

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

AD/

WP(C).No. 8869 of 2015 (G)

APPENDIX

PETITIONER(S):

EXT.P1 TRUE COPY OF THE JUDGMENT IN OP(DRT)N9.72/2014 OF THIS HON'BLE COURT DATED 10.7.2014.

EXT.P2 TRUE COPY OF THE LETTER NO.SARB/TVM/HV/16/319/14-15 DATED 6.8.2014 ISSUED BY THE RESPONDENT.

EXT.P3 TRUE COPY OF THE LETTER NO.SARB/TVM/HV/16/881/2014-15 DATED 14.01.2015 ISSUED BY THE RESPONDENT.

EXT.P4 TRUE COPY OF THE STATEMENT OF A/C NO.56333001091

EXT.P5 TRUE COPY OF THE STATEMENT OF A/C NO.66001596884

EXT.P6 TRUE COPY OF THE REPRESENTATION OF THE PETITIONER DATED 2.3.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 8869 of 2015

Dated this the 20th day of March, 2015

JUDGMENT

The petitioner has approached this Court, challenging the steps taken by the respondent bank for recovery of the loan amounts from the petitioner under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act'. The pleadings in the writ petition would disclose that the petitioner had already approached this Court on an earlier occasion through OP(DRT) No.72 of 2014, when, by Ext.P1 judgment, this Court granted the petitioner, the facility of paying the dues to the respondent bank in installments. The said judgment also directed the respondent bank to quantify the amount due from the petitioner and inform the petitioner in writing of the amounts as on 31.07.2014. The respondent bank, thereafter by Ext.P2 document dated 06.08.2014, informed the petitioner of the total dues in his account as on 31.07.2014. In terms of Ext.P1 judgment, the petitioner was to pay the said amount in 12 monthly installment, starting from 11.08.2014. It is not in dispute that the petitioner did not effect payments as directed in Ext.P1 judgment. The petitioner contends that he had later approached the respondent bank with a request for providing him with a statement of accounts together

with interest. In the writ petition, Exts.P4 and P5 are also produced showing the statement of dues of the petitioner. In any event, insofar as the petitioner did not comply with the directions in Ext.P1 judgment, and sought to approach the bank claiming a statement of accounts almost eight month after the date on which he was supposed to commence the repayment as per Ext.P1 judgment, the petitioner is not entitled to seek the discretionary relief of this Court under Article 226 of the Constitution of India, in respect of the same cause of action.

Thus, I am of the view, that the present writ petition, at the instance of the petitioner, claiming substantially the same relief as was earlier claimed before this Court, cannot be maintained. Resultantly, the writ petition fails, and is, accordingly, dismissed.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE