

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 9154 of 2015 (T)

PETITIONER(S):

1. K.P.ANURADHA,
PROPRIETRESS, M/S. V-STAR GARMENTS & TAILORING,
KUMMANNOOR P.O., KONNI, PATHANAMTHITTA-689 691.
2. UNNIKRISHNAN PILLAI,
KKB VILASOM, KUMMANNOOR P.O., KONNI,
PATHANAMTHITTA-689 691.
3. MANJU KRISHNAN,
PROPRIETRESS, M/S. MOOKAMBIKA PHARMACEUTICALS,
KUMMANNOOR PO, KONNI, PATHANAMTHITTA-689 691.
4. RAJENDRAN NAIR,
KKB VILASOM, KUMMANNOOR P.O., KONNI,
PATHANAMTHITTA-689 691.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT(S):

1. THE SOUTH INDIAN BANK LTD.,
KONNI BRANCH, KONNI, PATHANAMTHITTA DISTRICT,
REPRESENTED BY ITS MANAGER - 689 691.
2. AUTHORISED OFFICER,
THE SOUTH INDIAN BANK LTD., REGIONAL OFFICE, 2ND FLOOR,
TMJ COMPLEX, RAMANCHIRA, MUTHOOR P.O.,
THIRUVALLA, PATHANAMTHITTA DISTRICT 689 107.
3. CHANDRASEKHARA PILLAI K.P.,
PUTHENPURAICAL, MAMMOOD P.O., KUDA MUKKU,
NARIYAPURAM, PATHANAMTHITTA DISTRICT - 689 513.

R1 & R2 BY ADV. SRI.GEORGE VARGHESE, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 9154 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: COPY OF DISCHARGE SUMMARY ISSUED BY AMRITA INSTITUTE OF
MEDICAL SCIENCE AND RESEARCH CENTRE, KOCHI PRINTED ON 12.3.2014.**

EXT.P2: COPY OF DEMAND NOTICE DATED 26.9.2012.

**EXT.P3: COPY OF CRIMINAL MP NO.3448/2014 DATED 7.8.2014 FILED BY THE
2ND RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRTE COURT,
PATHANAMTHITTA.**

**EXT.P4: COPY OF OBJECTION FILED BY PETITIONERS IN CRL. MP NO. 3448/2014
DATED 10.11.2014.**

**EXT.P5: COPY OF ORDER DATED 24.1.2015 PASSED BY THE CHIEF JUDICIAL
MAGISTRAT COURT, PATHANAMTHITTA IN CRL.MP NO.3448/2014.**

**EXT.P6: COPY OF NOTICE DATED 26.2.2015 ISSUED BY ADVOCATE BIJU THOMAS
VARGHESE**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.9154 of 2015 (T)

.....
Dated this the 25th day of March, 2015

JUDGMENT

The petitioners, who had availed of a loan, from the 1st respondent Bank, 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.P5 is the order of the Chief Judicial Magistrate Court, Pathanamthitta, 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.V.Philip Mathews, the learned counsel appearing for the petitioners and Sri.George Varghese, learned Standing Counsel appearing for the 1st and 2nd 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 in respect of the loan is stated to be Rs.13,50,000/- together with accrued interest. Accordingly, if the petitioners remit an amount of Rs.13,50,000/- together with accrued interest in twelve equal and successive monthly installments commencing from 20.04.2015, 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 benefits 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

