

**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. 9412 of 2015 (B)**  
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**PETITIONER(S):**  
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- 1. P.K. ROOPAKALA, D/O.IMBICHUNNI,  
AGED 32 YEARS, PUTHIYEDATH KUNNUMMEL HOUSE,  
ELETTILE POST, KOZHIKODE DISTRICT.**
- 2. IMBICHUNNI, S/O.KELU, AGED 65 YEARS,  
PUTHIYEDATH KUNNUMMEL HOUSE,  
ELETTILE POST, KOZHIKODE DISTRICT.**

**BY ADV. SRI.P.VKUNHIKRISHNAN.**

**RESPONDENT(S):**  
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- 1. KOZHIKODE DISTRICT CO-OPERATIVE BANK,  
REPRESENTED BY ITS GENERAL MANAGER,  
KALLAI ROAD, CHALAPPRAM, KOZHIKODE-673 002.**
- 2. THE MANAGER,  
KOZHIKODE DISTRICT CO-OPERATIVE BANK,  
BALUSSERY BRANCH, KOZHIKODE-673 612.**
- 3. AUTHORISED OFFICER/ SENIOR MANAGER,  
KOZHIKODE DISTRICT CO-OPERATIVE BANK,  
RECOVERY SECTION, KALLAI ROAD,  
CHALAPPRAM, KOZHIKODE-673 002.**

**BY ADV. SRI.R.SUDHISH, SC.**

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

**rs.**

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

- EXT.P1 COPY OF THE RECEIPT SHOWING THE ABOVE PAYMENT OF Rs.99963/- DATED 09/06/2012.
- EXT.P2 COPY OF THE RECEIPT SHOWING THE ABOVE PAYMENT OF Rs.49987/- DATED 31/03/2011.
- EXT.P3 COPY OF THE NOTICE NO.REF.HO/R.CELL/SARFAESI/NKN/CLD 1541/2012-13 DATED 20/12/2013 ISSUED BY THE 3RD RESPONDENT.
- EXT.P4 COPY OF THE PETITION FILED BY THE 3RD RESPONDENT ON BEHALF OF 1ST RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE DATED 23/02/2015.
- EXT.P5 COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 02/03/2015.

**RESPONDENT'S EXHIBITS:-** NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C).NO.9412 OF 2015**  
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**Dated this the 25<sup>th</sup> day of March, 2015**

**J U D G M E N T**

The petitioners, who had availed of a loan from the respondent bank, defaulted in repayment 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', to recover the loan amounts. Ext.P5 is the notice issued by the Advocate Commissioner pursuant to the direction of the Chief Judicial Magistrate Court, Kozhikode. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioners as also the learned standing counsel appearing on behalf of 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 balance amounts outstanding to the bank in easy instalments. 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 from the petitioners to the respondent bank, as of today, is stated to be Rs.7,42,003/-. Accordingly, if the petitioners pay the aforesaid amount of Rs.7,42,003/-, together with accrued interest, in 10 equal and successive monthly instalments commencing from 10.04.2015, then the further proceedings for recovery of loan amounts from the petitioners shall be kept in abeyance.

(ii) It is made clear that if the petitioners commit a default in respect of any of the instalments, 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.

(iii) On the petitioners paying the 1<sup>st</sup> instalment on 10.04.2015, as directed in this judgment, the respondent bank shall furnish the petitioners with up to date statement of accounts so as to enable the petitioners to make the balance payments as directed in this judgment.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

