

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 9772 of 2015 (V)

PETITIONER(S):

- 1. P.J.THOMAS, AGED 47 YEARS, S/O.JOSEPH T.T.,
PARAYIL VEEDU, COLLEGE JUNCTION (E),
ALAYAMON, ANCHAL, KOLLAM DISTRICT.**
- 2. JESSIE, W/O.P.J.THOMAS,
PARAYIL VEEDU, COLLEGE JUNCTION (E),
ALAYAMON, ANCHAL, KOLLAM DISTRICT.**

**BY ADVS.SRI.ESM.KABEER
SMT.K.RAJESWARY**

RESPONDENTS:

- 1. THE CANARA BANK, ANCHAL BRANCH,
REPRESENTED BY ITS MANAGER, COLLEGE JUNCTION,
ANCHAL, PUNALLOOR, KOLLAM - 691 306.**
- 2. THE AUTHORISED OFFICER,
CANARA BANK, ANCHAL, PUNALLOOR,
KOLLAM - 691 306.**

BY SRI.PAULY MATHEW MURICKEN,SC,CANARA BANK

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 9772 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1: TRUE COPY OF THE RELEVANT EXTRACT OF STATEMENT FROM THE
LOAN ACCOUNT FOR THE PERIODS FROM 18/06/2013 TO 18/10/2014.**

**EXT.P2: TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 03/02/2015.**

**EXT.P3: TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT
DATED 09/04/2015.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.9772 of 2015 (V)

.....
Dated this the 6th day of April, 2015

JUDGMENT

The petitioners, who had availed of a housing loan from the respondent Bank, defaulted in repayment of the same. Consequently, the respondent 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 petitioners. Ext.P2 is the notice issued under Section 13(4), and Ext.P3 is the sale notice issued under the SARFAESI Act to 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.E.S.M.Kabeer, the learned counsel appearing for the petitioners and Sri.Pauly Mathew Murickan, the 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 overdue amount to the respondents 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 overdue amount in respect of the housing loan is stated to be Rs.3,99,462/-, together with accrued interest. Accordingly, if the petitioners remit the said amount of Rs.3,99,462/- together with accrued interest, in six equal and successive monthly installments commencing from 20.04.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him by the respondents 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 respondents 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/06/04/