

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 9987 of 2015 (W)

PETITIONER :

**SUKUMARAN.P.A., AGED 59 YEARS,
S/O.APPUKUTTAN, PANGICHANPURA, VALIYAKADU,
ANAKKAL PO, PALAKKAD DISTRICT - 678 652.**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENTS :

- 1. THE CANARA BANK
REPRESENTED BY ITS AUTHORIZED OFFICER,
MALAMPUZHA BRANCH, MALAMPUZHA PO, PALAKKAD - 678 651.**
- 2. THE MANAGER, THE CANARA BANK
MALAMPUZHA BRANCH, MALAMPUZHA PO, PALAKKAD - 678 651.**

R1 & R2 BY SRI.PAULY MATHEW MURICKEN,SC,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 9987 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE RECEIPT EVIDENCING PAYMENT OF RS . 3 LAKHS
- P2: TRUE COPY OF THE PLAINT IN O.S.NO.319/2014 ON THE FILE OF ADDITIONAL
MUNSIFF'S COURT, PALAKKAD.
- P3: TRUE COPY OF WRITTEN STATEMENT PREFERRED IN O.S.NO.319/2014.
- P4: TRUE COPY OF THE NOTICE ISSUED BY THE FIRST RESPONDENT UNDER
SECTION 13(4) R/W RULE 8(1) OF THE SECURITY INTEREST ENFORCEMENT
RULES, 2002

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No. 9987 of 2015 (W)

.....
Dated this the 9th day of April, 2015

JUDGMENT

The petitioner, who had availed of a loan from the respondent Bank and defaulted in re-payment of the same, is aggrieved by the steps taken by the respondent Bank under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', for recovery of the loan amount. The main ground of challenge in the writ petition against the action of the respondent Bank is that the respondent Bank has already instituted a suit as O.S.No.319 of 2014 before the Munsiff Court, Palakkad for recovery of the same amounts.

2. It is the contention of the petitioner, therefore, that in the light of the fact that the 2nd respondent has already instituted a suit against the petitioner, the action taken under the provisions of the SARFAESI Act cannot be justified.
3. The learned counsel for the respondent Bank would refer to a decision of the Division Bench of this Court in **Abdul Azeez v. Punjab National Bank** [2005 KHC 41] wherein, it was held that, there could be no illegality in the Bank taking recourse to the provisions of the SARFAESI Act even though civil suits are

pending between the parties. I find that the issue involved in the present writ petition is squarely covered by the said judgment of the Division Bench of this Court. Accordingly, following the said judgment, I dismiss the writ petition as devoid of merit.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/09/04/

