

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 10166 of 2015 (U)

PETITIONER(S):

**C. ABDUL KAREEM,
W/O. HYDRU HAJI, KEYATH HOUSE, VELLUR P.O.,
POOKOTTUR, MALAPPURAM DISTRICT.**

BY ADV. SRI.T.PRASAD.

RESPONDENT(S):

**THE AUTHORIZED OFFICER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED,
MALAPPURAM P.O., MALAPPURAM - 676 505.**

BY ADV. SRI.E.S.M.KABEER, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 10166 of 2015 (U)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT-P1- TRUE COPY OF THE NOTICE DATED 20/03/2015 ISSUED BY
THE ADVOCATE COMMISSIONER SMT. LIJITHA K., TO THE
PETITIONER.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.10166 of 2015 (U)

.....
Dated this the 7th day of April, 2015

JUDGMENT

The petitioner, 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', against the petitioner. Ext.P1 is the copy of the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Manjeri, to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.Prasad T., the learned counsel for the petitioner and Sri.E.S.M.Kabeer, the learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total

amount outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:

- i. The total amount outstanding in respect of the loan is stated to be Rs.20,34,948/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.20,34,948/- together with accrued interest, in twelve equal and successive monthly instalments commencing from 30.04.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the Bank shall be kept in abeyance.
- ii. It is made clear that, if the petitioner commits a default in respect of any of the installments, he will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/04/