

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 10308 of 2015 (K)

PETITIONER(S) :

**SIYAHUDEEN, AGED 48 YEARS,
S/O.MUHAMMED KUNJU, VARUVILA PUTHENVEEDU,
KILIKOLLOOR P.O, KOLLAM.**

**BY ADVS.SRI.PRATHEESH.P
SMT.S.SEETHA**

RESPONDENT(S) :

- 1. THE AUTHORISED OFFICER,
KOLLAM CO-OPERATIVE URBAN BANK LTD.NO.960,
KOLLAM- 691 001.**
- 2. THE MANAGER,
KOLLAM CO-OPERATIVE URBAN BANK LTD.NO.960,
MAIN BRANCH, KOLLAM- 691 001.**

**BY ADVS. SRI.N.DHARMADAN
SMT.D.P.RENU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 10308 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: THE COPY OF THE NOTICE ISSUED BY THE ADVOCATE
COMMISSIONER DATED 12.03.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.10308 OF 2015 (K)

Dated this the 30th day of March, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the respondent bank, defaulted in repayment of the loan amounts. 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.P1 is the notice issued by the Advocate Commissioner pursuant to the direction issued by the Chief Judicial Magistrate Court, Kollam. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondent bank.

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 petitioner is to permit him to remit the balance amounts 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 overdue amount, in respect of the loan availed by the petitioner, is stated to be Rs.3,65,535/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.3,65,535/- together with accrued interest in four equal and successive monthly installments commencing from 20.4.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp