

**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. 11322 of 2015 (M)**  
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**PETITIONER(S):**  
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**A.AYOOBKHAN AGED 43 YEARS,  
S/O. ABDUL RASHEED M., ROADARIKATHU VEEDU  
PARANDODE, ARYANADU, NEDUMANGAD  
THIRUVANANTHAPURAM**

**BY ADVS.SRI.K.T.SHYAMKUMAR  
SRI.HARISH R. MENON**

**RESPONDENT(S):**  
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- 1. STATE BANK OF TRAVANCORE,  
NEDUMANGAD BRANCH, THIRUVANANTHAPURAM - 695 541  
REPRESENTED BY ITS BRANCH MANAGER**
- 2. THE AUTHORISED OFFICER,  
STATE BANK OF TRAVANCORE, NEDUMANGAD BRANCH  
THIRUVANANTHAPURAM - 695 541**

**R BY SRI.SANTHOSH MATHEW  
R BY SRI.SATHISH NINAN, STANDING COUNSEL , SBT**

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

**APPENDIX**

**PETITIONER'S EXHIBITS:**

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- EXHIBIT P1** TRUE COPY OF THE SECTION 13(2) NOTICE UNDER THE SARFAESI ACT ISSUED TO THE PETITIONER.
- EXHIBIT P2** TRUE COPY OF THE SECTION 13(4) NOTICE ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT.
- EXHIBIT P3** TRUE COPY OF THE WARRANT DATED 10.02.2015 ISSUED BY THE CHIEF JUDICIAL MAGISTRATE'S COURT, THIRUVANANTHAPURAM IN MC No.124/2015.
- EXHIBIT P4** TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 10.03.2015.
- EXHIBIT P5** TRUE COPY OF THE NOTICE DATED 08.10.2014 ISSUED BY THE 1ST RESPONDENT.

**RESPONDENT'S EXHIBITS:**

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**NIL**

// True copy //

PA to Judge

das

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

**W.P.(C). No. 11322 of 2015**

**Dated this the 7<sup>th</sup> day of April, 2015**

**JUDGMENT**

The petitioner, who had availed 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.P1 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act. Ext.P2 is the notice under Section 13(4) of the SARFAESI Act and Ext.P3 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate's Court, Thiruvananthapuram. 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 on behalf of the petitioner as also he 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 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, is stated to be Rs.2,00,027/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,00,027/- together with accrued interest in six equal and successive monthly installments commencing from 30.04.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him by the respondent 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**