

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. 11382 of 2015 (W)

PETITIONER:

**MOHAMMED M, S/O.ABU,
MOOTHEDATH HOUSE,
THOTTINTAKKARE, MAMPAD,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.SAMSUDIN
SRI.M.S.MOHAMMED ANSARY
SRI.K.C.ANTONY MATHEW
SRI.JITHIN LUKOSE**

RESPONDENT(S):

- 1. THE SOUTH INDIAN BANK LTD.,
REPRESENTED BY CHIEF MANAGER,
REGIONAL OFFICE, HAPPY TOWERS
VAIKOM MOHAMMED BASHEER ROAD,
MANACHIRA, KOZHIKODE - 673 001.**
- 2. THE AUTHORISED OFFICER,
THE SOUTH INDIAN BANK LTD.,
REGIONAL OFFICE, HAPPY TOWERS
VAIKOM MOHAMMED BASHEER ROAD,
MANACHIRA, KOZHIKODE - 673 001.**

BY SRI.GEORGE VARGHESE, SC

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

mbr/

WP(C).No. 11382 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE STATEMENT OF ACCOUNT PERTAINING TO THE
ACCOUNT OF THE PETITIONER.**

EXHIBIT P2 : TRUE COPY OF THE RECEIPTS FOR PAYMENT OF AMOUNTS.

**EXHIBIT P3 : TRUE COPY OF THE PETITION DATED 25.6.2014 IN CMP 2105/2014 OF
THE FILES OF CJM COURT, MANJERI.**

**EXHIBIT P4 : TRUE COPY OF THE NOTICE DATED 24.2.2015 IN CMP.2105/2014
ISSUED BY THE ADVOCATE COMMISSIONER.**

RESPONDENT'S EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 11382 of 2015

Dated this the 7th day of April, 2015

JUDGMENT

The petitioner, who had availed an overdraft facility for Rs.20,00,000/- 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.P4 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate's Court, Manjeri. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the 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 outstanding amount, in respect of the overdraft facility availed by the petitioner, is stated to be Rs.24,11,523/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.24,11,523/- together with accrued interest in twelve equal and successive monthly installments commencing from 30.04.2015, 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