

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. 11849 of 2015 (E)

PETITIONER(S) :

1. **PRAJESH V.P., AGED 31 YEARS,
S/O.PRABHAKARAN V.N., VETTUKUZHIL HOUSE,
KATTAMPAKKU KARA, VAIKOM TALUK,
VADAKKENIRAPPU P.O., KOTTAYAM - 686 612.**
2. **PRABHAKARAN, AGED 62, S/O.NARAYANAN,
VETTUKUZHIL HOUSE, KATTAMPAKKU KARA,
VAIKOM TALUK, VADAKKENIRAPPU P.O.,
KOTTAYAM - 686 612.**
3. **RAJESH V.P., AGED 29 YEARS,
S/O.PRABHAKARAN V.N.,
VETTUKUZHIL HOUSE, KATTAMPAKKU KARA,
VAIKOM TALUK, VADAKKENIRAPPU P.O.,
KOTTAYAM - 686 612.**

**BY ADVS.SRI.RAJAGOPAL PADIPPURACKAL
SRI.SINU.G.NATH**

RESPONDENT(S):

**THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, DISTRICT BANK BUILDING,
KOTTAYAM P.O., PIN - 686 001.,
REP. BY ITS AUTHORIZED OFFICER.**

BY ADV. SRI.SUNIL CYRIAC,SC,DIST.CO-OP,BANK,KTM

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

AMV

: 2 :

WP(C).No. 11849 of 2015 (E)

APPENDIX

PETITIONER(S) EXHIBITS :

**EXT.P1 : COPY OF THE NOTICE ISSUED BY THE
ADVOCATE COMMISSIONER TO THE 1ST
PETITIONER DATED 09.12.2014.**

**EXT.P2 : COPY OF THE NOTICE ISSUED BY THE
ADVOCATE COMMISSIONER TO THE 2ND
PETITIONER DATED 09.12.2014.**

**EXT.P3 : COPY OF THE NOTICE ISSUED BY THE
ADVOCATE COMMISSIONER TO THE 3RD
PETITIONER DATED 09.12.2014.**

**EXT.P4 : COPY OF THE NOTICE ISSUED BY THE
ADVOCATE COMMISSIONER TO THE WIFE OF
THE 2ND PETITIONER DATED 09.12.2014.**

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.11849 of 2015 (E)

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

JUDGMENT

The petitioners, who had availed of three loans from the respondent Bank, defaulted in repayment of the same. Consequently, the respondent 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 petitioners. Exts.P1 to P4 are the notices, issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate Court, Kottayam, to the petitioners in that regard. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Raja Gopal Padippurackal, the learned counsel appearing for the petitioners and Sri.Sunil Cyriac, the learned Standing counsel appearing for 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 petitioners is to permit them to remit the total overdue amount to the respondents in easy installments. Taking into account the plea of financial hardship raised by the petitioners, I

dispose the writ petition with the following directions:

- i. The total overdue amount in respect of the three loans is stated to be Rs.3,69,492/-, together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.3,69,492/- together with accrued interest, in five equal and successive monthly installments commencing from 30.04.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him by the respondents shall be kept in abeyance.
- ii. It is made clear that, if the petitioners commit a default in respect of any of the installments, they will lose the benefit of this judgment and the respondents will be free to continue the recovery proceedings against them from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/10/04/