

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. 11947 of 2015 (P)

PETITIONER(S):

**K.SANTHOSH KUMAR AGED 39 YEARS
S/O. KRISHNAN NAIR, SANTHOSH BHAVAN
PATTATHINKARA, THONNAKKAL PO, THIRUVANANTHAPURAM**

BY ADV. SRI.K.BALACHANDRAN (VARKALA)

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001**
- 2. THE KERALA STATE CO-OPERATIVE BANK LTD
REPRESENTED BY ITS REGIONAL MANAGER, REGIONAL OFFICE
OVERBRIDGE JUNCTION, THIRUVANANTHAPURAM - 695 001**
- 3. THE KERALA STATE CO-OPERATIVE BANK LTD.
REPRESENTED BY ITS BRANCH MANAGER,
MEDICAL COLLEGE BRANCH, MEDICAL COLLEGE PO
THIRUVANANTHAPURAM**

**R BY GOVERNMENT PLEADER,SRI, SHYSON P.MANGUZHA
R BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BAN**

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

WP(C).No. 11947 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1 TRUE COPY OF NOTICE DATED 27.02.2015 ISSUED BY R.M, KERALA
STATE CO-OPERATIVE BANK LTD (R2) TO THE PETITIONER UNDER
RULE 8(1) 2002 OF SECURITY INTEREST (ENFORCEMENT).**

EXHIBIT P2 PAPER NOTIFICATION IN MATHRUBHOOMI DAILY DATED 05.03.2015.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 11947 of 2015

Dated this the 9th 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. 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 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 overdue amount, in respect of the loan, is stated to be Rs.1,06,100/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,06,100/- together with accrued interest in eight 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