

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

WP(C).No. 12563 of 2015 (U)

PETITIONER(S):

**S.NOUSHAD, AGED 43 YEARS,
S/O.SHAMSUDEEN, RESIDING AT 'MULLASSERIL',
PADA NORTH, KARUNAGAPPALLY P.O.,
KOLLAM , PIN-690 518.**

**BY ADVS.SRI.SAIJU S.
SRI.P.H.RISHAD
SRI.GIREESH PANKAJAKSHAN**

RESPONDENT(S):

**REPCO HOME FINANCE LTD.,
KOLLAM BRANCH, I FLOOR, KRISHNASWAMY AVENUE,
CONVENT ROAD, BEHIND DISTRICT HOSPITAL, KOLLAM-691 010,
REPRESENTED BY ITS AUTHORISED OFFICER
UNDER THE SARFAESI ACT, 2002.**

BY ADV. SRI.K.P.SUJESH KUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
19-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 12563 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1:-THE TRUE COPY OF THE POSSESSION NOTICE DTD 24.6.2014 ISSUED BY THE
RESPONDENT BANK TO THE PETITIONER, UNDER SECTION 13(4) OF THE
SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT 2002.**

**P2:-THE TRUE COPY OF THE NOTICE DTD 31/3/2015 , ISSUED BY THE ADVOCATE
COMMISSIONER APPOINTED VIDE PROCEEDINGS IN CMP NO 1922.2015 PENDING
WITH THE CHIEF JUDICIAL MAGISTRATES COURT, KOLLAM.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No.12563 of 2015

Dated this the 19th day of October, 2015

JUDGMENT

The petitioner, who had availed of 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. Aggrieved by the notice issued to the petitioner by the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court, Kollam, the petitioner had approached this Court challenging the recovery steps initiated by the respondent bank. By an interim order dated 17/04/2015, the petitioner was directed to pay an amount of Rs.3,00,000/- within 30 days and thereafter Rs.5,50,000/- in 30 more days, apart from the petitioner continuing to pay monthly installments as a condition for granting the interim order of stay against recovery proceedings initiated against the petitioner. The petitioner did not comply with the directions in the interim order within the time granted by this Court. This Court, thereafter, by an order dated 21/08/2015, granted the petitioner further period of one month to comply with

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the directions in the earlier interim order. The petitioner has not complied with the directions even within the extended time granted by this court. Under the said circumstances, I am of the view that the petitioner cannot aspire for any discretionary relief from this Court in these proceedings under Article 226 of the Constitution of India. The writ petition fails and is accordingly dismissed.

**A.K.JAYASANKARAN NAMBIAR
JUDGE**