

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).No. 13182 of 2015 (W)

PETITIONER(S) :

**T.V.THANKACHAN, AGED 54 YEARS,
S/O.VARKEY, THURUTHUMALIYIL VEEDU, ATHIRAMPUZHA POST,
ATHIRAMPUZHA VILLAGE, KOTTAYAM DISTRICT, PIN- 686 562**

**BY ADVS.SRI.K.J.MOHAMMED ANZAR
SRI.A.D.SURESH BABU**

RESPONDENT(S) :

**1. THE KOTTAYAM CO-OPERATIVE URBAN BANK LTD. NO.421,
GANDHI NAGAR BRANCH, KOTTAYAM,
REPRESENTED BY ITS SECRETARY, GANDHI NAGAR,
KOTTAYAM DISTRICT, PIN- 686 562.**

**2. THE AUTHORISED OFFICER,
KOTTAYAM CO-OPERATIVE URBAN BANK LTD. NO.421,
GANDHI NAGAR BRANCH, KOTTAYAM,
REPRESENTED BY ITS SECRETARY, GANDHI NAGAR,
KOTTAYAM DISTRICT, PIN- 686 562.**

BY ADV. SRI.SURIN GEORGE IYPE, S.C

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

WP(C).No. 13182 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXT.P1: TRUE COPY OF THE NOTICE NO.2105/9/2/12 DATED 09/02/2012
ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

**EXT.P2: TRUE COPY OF THE NOTICE DATED 10/04/2015 ISSUED BY
THE 2ND RESPONDENT TO THE PETITIONER.**

**EXT.P3: A TRUE COPY OF THE DISCHARGE CERTIFICATE ISSUED TO
THE PETITIONER FROM MEDICAL COLLEGE HOSPITAL ,
KOTTAYAM.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 13182 of 2015

Dated this the 16th day of November 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 outstanding amount, in respect of the loan as on today, is stated to be Rs.7,06,347/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.7,06,347/- together with accrued interest in twelve equal and successive monthly installments commencing from 30.11.2015, 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

sm/