

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 19TH DAY OF MAY 2015/29TH VAISAKHA, 1937

WP(C).No. 14661 of 2015 (G)

PETITIONER :

**MUHAMMED M.P., AGED 58 YEARS,
S/O. KUNHI MOIDEEN KUTTY, MELEPURATH HOUSE,
ULLANAM P.O, MALAPPURAM-676 303**

BY ADV. SRI.E.S.ASHRAF

RESPONDENT(S):

- 1. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
REPRESENTED BY ITS GENERAL MANAGER, HEAD OFFICE,
MALAPPURAM -676 505**
- 2. THE AUTHORISED OFFICER(UNDER THE SARFAESI ACT),
DEPUTY GENERAL MANAGER,
THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD,
HEAD OFFICE, MALAPPURAM-676 505**

BY SRI.ESM.KABEER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 14661 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHBIIT P1 TRUE COPY OF THE RELEVANT PAGES OF THE LOAN PASS BOOK
- EXHBIIT P2- TRUE COPY OF THE RECEIPTS ISSUED BY THE BANK
- EXHBITI P3- TRUE COPY OF THE PROCEEDINGS DATED 21-10-2011 ISSUED BY THE
DISTRICT COLLECTOR
- EXHBITI P4- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE DEBT RELIEF COMMISSION
- EXHBIIT P5- TRUE COPY OF THE POSSESSION NOTICE DATED 04-08-2014 ISSUED
BY THE 2ND RESPONDENT PUBLISHED IN CHANDRIKA NEWS DAILY
DATED 10-08-2014
- EXHBITI P6- TRUE COPY OF THE NOTICE FOR CONDUCTING INSPECTION ISSUED
BY THE ADVOCATE COMMISSIONER
- EXHBITI P7- TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE
PRESIDENT OF THE BANK

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.14661 of 2015

.....
Dated this the 19th day of May, 2015

J U D G M E N T

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. Ext.P5 is the possession notice issued by the 2nd respondent. Ext.P6 is the notice issued by the Advocate commissioner. 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 for the respondent bank.

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 instalments. Taking into account the plea of financial hardship raised by the petitioner, I

dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank as of today, is stated to be Rs.7,90,314/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.7,90,314/- together with accrued interest in 12 equal and successive monthly instalments commencing from 10.06.2015, the recovery steps initiated against the petitioner 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 instalments, 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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