

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 17270 of 2014 (G)

PETITIONER(S):

**C.HAMZA KOYA, AGED 56 YEARS,
S/O.SAYATHALI KUTTY, CHERAKOT HOUSE, 3/342,
PAANGATTU PARAMBA, NEAR GASIM MASJITH, BEYPORE,
KOZHIKODE- 673 015.**

BY ADV. SRI.ZAKEER HUSSAIN

RESPONDENT(S) :

- 1. THE AUTHORISED OFFICER,
SYNDICATE BANK, CHEROOTTY ROAD BRANCH,
KOZHIKODE- 673 015.**
- 2. M/S.SYNDICATE BANK,
CHEROOTTY ROAD BRANCH, KOZHIKODE- 673 015,
REPRESENTED BY ITS BRACH MANAGER.**

BY ADV. SRI.R.S. KALKURA, S.C

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

WP(C).No. 17270 of 2014 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE LOAN APPLICATION OF THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE STATEMENT OF LOAN ACCOUNT.

EXHIBIT P3: TRUE COPY OF THE REPRESENTATION DATED 05-07-2014.

RESPONDENT(S)' ANNEXURES

**ANNEXURE R1(A): TRUE COPY OF THE NOTICE OF DEMAND ISSUED TO
THE RESPONDENT BY THE DEBT RECOVERY TRIBUNAL,
ERNAKULAM.**

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C) No.17270 of 2014 (G)

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Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 2nd respondent Bank in the year 2008, creating security interest over property, defaulted in re-payment 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', against the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Zakir Hussain, the learned counsel appearing for the petitioner and Sri.R.S.Kalkura, 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 petitioner is to permit him to remit the entire amount 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 amount due from the

petitioner to the Bank is stated to be Rs.61,13,051/- together with accrued interest. Accordingly, if the petitioner remits the entire amount of Rs.61,13,051/- together with accrued interest by 31.03.2015, then, the further proceedings against the petitioner, shall be kept in abeyance.

ii) It is made clear that, if the petitioner commits default in respect of the aforesaid direction, then, he will lose the benefits 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

AMV/02/02/

