

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 24482 of 2015 (I)

PETITIONER(S):

- 1. BABURAJAN.V.K., AGED 51 YEARS,
S/O.KOCHUPILLAI, VANDHUPARAMBIL HOUSE, ULLIKKAL P.O
KANNUR DISTRICT.**
- 2. RAJAMMA,
W/O.BABURAJAN, VANDHUPARAMBIL HOUSE, ULLIKKAL P.O,
KANNUR DISTRICT.**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
APPOINTED UNDER THE SARFAESI ACT,
DHANALAKSHMI BANK LTD.
KANNUR BRANCH, KANNUR DISTRICT. 670 001.**
- 2. THE REGIONAL MANAGER,
DHANALAKSHMI BANK LTD, REGIONAL OFFICE,
CM MATHEW BUILDING, 1ST FLOOR, RAMMOHAN ROAD,
KOZHIKODE 673 004.**
- 3. THE BRANCH MANAGER,
DHANALAKSHMI BANK LTD, KANNUR BRANCH, GRAND PLAZA
FORT ROAD, KANNUR DISTRICT. 673 004.**

BY ADV. SRI.C.K.KARUNAKARAN,SC,

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 24482 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. COPY OF THE NOTICE NO.RO/KOZ/14/2014-15 DATED 19.12.14 ISSUED BY THE RESPONDENT BANK.**
- EXHIBIT P2. COPY OF THE POSSESSION NOTICE UNDER RULE 8(1) OF THE SARFAESI ACT ON 23.2.15.**
- EXHIBIT P3. COPY OF THE ANOTHER NOTICE WAS ISSUED ON 19.3.15.**
- EXHIBIT P4. COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE GOVERNMENT OF KERALA DATED 12.3.03.**
- EXHIBIT P5. COPY OF THE ORDER HAS BEEN PASSED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY IN CMP 2542/2015 DATED 16.6.15.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.24482 OF 2015 (I)

Dated this the 1st day of September, 2015

J U D G M E N T

The petitioners, 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 order passed by the Chief Judicial Magistrate Court, Thalasseri, appointing an Advocate Commissioner. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioners as also the learned Standing counsel appearing 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 petitioners is to permit them to remit the balance amounts outstanding to the bank in easy installments. Taking into account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount, in respect of the loan availed by the petitioners, as of today, is stated to be Rs.12,50,000/- together with accrued interest. Accordingly, if the petitioners pay the said amount of Rs.12,50,000/- together with accrued interest in six equal and successive monthly installments commencing from 01.10.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against them by the respondent bank shall be kept in abeyance.

(ii) It is further made clear that if the petitioners commit a default in respect of any of the installments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp