

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937**

**WP(C).No. 24988 of 2015 (W)**  
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**PETITIONER :**  
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**K. ACHUTHAN  
S/O. AYYAPPAN, AGED 59 YEARS  
KARUVANTHODI HOUSE, VATTAPARAMBA  
CHAPPANANGADI P.O., MALAPPURAM DISTRICT  
PIN - 676 503.**

**BY ADVS.SRI.G.CHANDRASEKHAR  
SRI.RAYNOLD FERNANDEZ N.  
SRI.SIJO GEORGE**

**RESPONDENT(S) :**  
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- 1. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD  
NO. 4329, KOTTAKKAL, KOTTAKKAL P.O., PIN - 676 503.**
- 2. THE AUTHORISED OFFICER & DEPUTY GENERAL MANAGER  
MALAPPURAM DISTRICT, CO-OPERATIVE BANK LTD  
HEAD OFFICE, UP HILL, MALAPPURAM DISTRICT  
PIN - 676 505.**

**R1 & R2 BY ADV. SRI.E.S.M.KABEER, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-10-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**Mn**

**...2/-**

**WP(C).No. 24988 of 2015 (W)**  
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**APPENDIX**

**PETITIONERS' EXHIBITS :**  
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- EXT. P1 - TRUE COPY OF NOTICE UNDER SECTION 13(2) OF SECURITISATION ACT DATED 19.12.2011.**
- EXT. P2 - TRUE COPY OF NOTICE UNDER SECTION 13(4) OF SECURITISATION ACT DATED 13.8.2011.**
- EXT. P3 - TRUE COPY OF THE SECTION 13(4) PUBLISHED IN MATHRUBHUMI DAILY DATED 21.8.2012.**
- EXT. P4 - TRUE COPY OF THE CMP NO. 1036/2015 FILED BY THE 2ND RESPONDENT UNDER SECTION 14 OF SECURITISATION ACT DATED 31-3-2015.**
- EXT. P5 - TRUE COPY OF THE AFFIDAVIT FILED IN CMP NO. 1036/2015 BY THE 2ND RESPONDENT DATED 31.3.2015.**
- EXT. P6 - TRUE COPY OF THE ORDER PASSED BY THE HON'BLE CHIEF JUDICIAL MAGISTRATE COURT, MANJERI UNDER SECTION 14 OF SECURITISATION ACT DATED 03.7.2015.**
- EXT.P7 - COPY OF THE RECEIPT ISSUED BY THE 1ST RESPONDENT.**

**RESPONDENT(S)' EXHIBITS : NIL**  
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**//TRUE COPY//**

**P.S. TO JUDGE**

**Mn**

**A.K.JAYASANKARAN NAMBIAR, J.**  
.....  
**W.P.(C).No.24988 of 2015**  
.....  
**Dated this the 30<sup>th</sup> day of October, 2015**

**J U D G M E N T**

The petitioner who had availed of an overdraft facility 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.P6 is the order passed by the Chief Judicial Magistrate. 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 for the petitioner and the learned Standing Counsel appearing on behalf of 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, in respect of the over draft facility, is stated to be Rs.24,48,315/- together with accrued interest and collection charges. Accordingly, if the petitioner pays the aforesaid amount of Rs.24,48,315/- together with accrued interest and collection charges in 15 equal and successive monthly instalments commencing from 30.11.2015, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

(iii) 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**

mns/30.10.15

