

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

WP(C).NO. 25033 OF 2015 (D)

PETITIONER(S) :

1. NIZAR NOORUDEEN, 'DARUNOOR' ALUNKADAVU P.O.,
KARUNAGAPALLY, KOLLAM DISTRICT - 690 573.

2. NAHEETHA NIZAR,
'DARUNOOR' ALUNKADAVU P.O., KARUNAGAPALLY
KOLLAM DISTRICT - 690 573.

BY ADV. SMT.S.KARTHIKA

RESPONDENT(S) :

1. M/S.SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
FORMERLY KNOWN AS (SUNDARAM HOME FINANCE LIMITED)
SUNDARAM TOWERS, 4TH FLOOR, NO.46
WHITES ROAD, CHENNAI - 600 014
HAVING ITS AREA OFFICE AT 2ND FLOOR
ELIZABETH ALEXANDER MEMORIAL BUILDING, MARINE DRIVE
OPPOSITE RAINBOW BRIDGE, ERNAKULAM
KOCHI - 682 031 REPRESENTED BY ITS AUTHORISED OFFICER.

2. M/S.SUNDARAM BNP PARIBAS HOME FINANCE LTD., 2ND FLOOR,
CENTRE POINT, NEAR POST OFFICE, KP ROAD
KAYAMKULAM - 690 502 REPRESENTED BY THE BRANCH MANAGER.

R1,R2 BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 25033 OF 2015 (D)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1:-TRUE COPY OF THE OFFER LETTER DTD 30/7/2014

P2:-TRUE COPY OF THE NOTICE DTD 29/12/2014

P3:-TRUE COPY OF THE NOTICE DTD 5/8/2015 ISSUED BY THE ADVOCATE
COMMISSIONER

RESPONDENT(S) ' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.25033 of 2015

.....
Dated this the 2nd day of September, 2015

J U D G M E N T

The petitioners, who had availed of a loan from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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.P3 is the notice issued by the Advocate Commissioner. In the writ petition, the petitioners impugn the steps initiated by the respondent company for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioners.

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 company in easy instalments. 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 is stated to be Rs.13,06,295/- together with accrued interest. Accordingly, if the petitioners pay the aforesaid amount of Rs.13,06,295/- together with accrued interest in 10 equal and successive monthly instalments commencing from 01.10.2015, and continue to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioners by the respondent shall be kept in abeyance.

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

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns

