

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 26009 of 2015 (A)

PETITIONER :

**ELSAMMA JOSEPH, AGED 59 YEARS,
W/O.CHACKO K.J., KEERANCHIRA HOUSE,
MERIKUNNU P.O., CALICUT-673 012.**

**BY ADVS.SRI.M.M.HUSAIN
SRI.K.A.MANZOOR ALI**

RESPONDENTS :

**1. THE ASSISTANT GENERAL MANAGER,
REVENUE RECOVERY DEPARTMENT
THE CALICUT CO-OPERATIVE URBAN BANK,
KALLAI ROAD, KOZHIKODE-02.**

**2. THE BRANCH MANAGER
THE CALICUT CO-OPERATIVE URBAN BANK, KALLAI ROAD
MALAPARAMBU BRANCH, KOZHIKODE-02.**

BY ADV. SRI.DEVAPRASANTH.P.J.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE REPRESENTATION DATED 22/12/2014 SUBMITTED
BY THE PETITIONER BEFORE THE RESPONDENT.
- EXT.P2: TRUE COPY OF THE SEC.13(2) NOTICE DATED 22/5/2015 ISSUED BY
THE 1ST RESPONDENT.
- EXT.P3: TRUE COPY OF THE POSSESSION NOTICE DATED 14/8/2015.
- EXT.P4: TRUE COPY OF THE LETTER DATED 2/7/2014 SUBMITTED BY THE
PETITIONER

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.26009 of 2015

Dated this the 4th day of December 2015

JUDGMENT

The petitioner, who had availed 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.P3 is the possession notice issued to the petitioner by the respondent bank. 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 appearing on behalf of 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 her to remit the balance amounts 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 overdue amount, in respect of the loan, is stated to be Rs.1,55,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,55,000/- together with accrued interest in five equal and successive monthly installments, commencing from 21.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against her 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 installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/