

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 26440 of 2015 (D)

PETITIONER :

**ABDUL SALAM K.K.,
S/O. KADARKUNJU AGED 38 YEARS,
HOUSE NO 433-A, KALAPURAKKAL HOUSE,
VELLATTUMPADAM, THRIKKAKARA P.O, KAKKANAD,
ERNAKULAM -682 021**

**BY ADVS.SMT.M.R.REENA
SRIP.S.SUJETH**

RESPONDENT(S):

- 1. THE BRANCH MANAGER,
ALLAHABAD BANK ERNAKULAM BRANCH,
SABU & CYPRIAN BUILDING, R MADHAVAN NAIR BUILDING,
OPP. DOLPHIN CLUB, KOCHI -682 016**
- 2. THE CHIEF MANAGER/AUTHORIZED OFFICER,
ALLAHABAD BANK ERNAKULAM BRANCH,
SABU & CYPRIAN BUILDING, R MADHAVAN NAIR BUILDING,
OPP. DOLPHIN CLUB, KOCHI -682 016**

R1 & R2 BY ADV. SRI.K.P.RAMACHANDRAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 THE TRUE COPY OF THE STATEMENT OF ACCOUNTS DATED FROM
 03-03-2007 TO 11-08-2015
- EXT.P2 THE TRUE COPY OF THE POSSESSION NOTICE DATED 28-07-2015
- EXT.P3 TRUE COPY OF THE REPRESENTATION DATED 05-08-2015

RESPONDENT(S)' EXHIBITS

- EXT.R2(A) TRUE COPY OF THE REGISTERED LETTER DATED 27/11/2007 SENT BY
 THE BANK TO THE PETITIONER.
- EXT.R2(B) TRUE COPY OF THE LETTER DATED 30/01/2009 SENT BY THE BANK
 TO THE PETITIONER, RE-FIXING/ RESCHEDULING THE INSTALLMENTS
 AS RS.10,500/-
- EXT.R2(C) COPY OF THE LETTER DATED 06/08/2010 SENT BY THE BANK TO THE
 PETITIONER.
- EXT.R2(D) COPY OF THE LETTER DATED 10/12/2011 SENT BY THE BANK TO THE
 PETITIONER.
- EXT.R2(E) COPY OF THE FINAL NOTICE DATED 14/12/2011 SENT BY THE BANK
 TO THE PETITIONER.
- EXT.R2(F) COPY OF THE REGISTERED LAWYER NOTICE DATED 17/08/2012 SENT
 BY THE BANK TO THE PETITIONER.
- EXT.R2(G) COPY OF THE NOTICE DATED 04/05/2015 ISSUED UNDER SECTION 13
 (2) OF THE SARFAESI ACT TO THE PETITIONER.
- EXT.R2(H) COPY OF THE MASTER CIRCULAR DATED 01/07/2014 OF THE
 RESERVE BANK OF INDIA
- EXT.R2(I) COPY OF THE RECOVERY MANAGEMENT POLICY (ONLY RELEVANT
 PAGES AND PORTIONS) OF THE RESPONDENT BANK DATED
 17/04/2015.

/TRUE COPY/

PA.TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26440 of 2015

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Dated this the 13th day of October, 2015

J U D G M E N T

The petitioner, 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.P1 is the possession notice. 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 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 petitioner is to permit him to remit the balance amounts outstanding to the respondent 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.4,81,500/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,81,500/- together with accrued interest in ten equal and successive monthly instalments commencing from 01.11.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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

