

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 26695 of 2015 (J)

PETITIONER(S):

**SHAJAHAN K.M AGED 40 YEARS
S/O.MAMMUNNI, KOLAYIL HOUSE
VELLIKKAD P.O.PALAKKAD - 678 592.**

**BY ADVS.SRI.RAJESH NAMBIAR
SMT.SINDHU K.NAMBIAR**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR
CIVIL STATION, PALAKKAD - 678 001.**
- 2. THE VILLAGE OFFICER
MUNDUR - 2 VILLAGE, PALAKKAD - 678 006.**
- 3. THE HDFC BANK
CHANDRANAGAR BRANCH
PALAKKAD - 678 001.REPRESENTED BY ITS MANAGER.**

**R3 BY ADV. SRI.T.RAJESH, SC, HDFC BANK LTD.
R BY GOVERNMENT PLEADER, SRI. LIJU V. STEPHEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1:** TRUE COPY OF THE COMMUNICATION DATED 20.2.15 ISSUED FROM THE OFFICE OF THE MINISTER OF REVENUE, THIRUVANANTHAPURAM.
- EXT.P-2:** TRUE COPY OF THE RECEIPT NO.7282676 DATED 25.3.15 ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT
- EXT.P-3:** TRUE COPY OF THE NOTICE ISSUED BY A.V.ARUN, ADVOCATE PALAKKAD
- EXT.P-4:** TRUE COPY OF THE JUDGEMENT DATED 19.6.2015 IN WPC 13191/15
- EXT.P-5:** TRUE COPY OF THE POSSESSION NOTICE DATED 25.8.2015
- EXT.P-6:** TRUE COPY OF THE LIST OF INVENTORY TAKEN BY THE ADVOCATE COMMISSIONER ON 25.8.2015

RESPONDENT(S)' EXHIBITS

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 26695 of 2015

Dated this the 11th day of September, 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.P5 is the notice issued to the petitioner under Section 13(4) of the SARFAESI Act. It is stated that the bank has since obtained physical possession of the secured asset.

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 him 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 outstanding amount, in respect of the loan, is stated to be Rs.30,31,631/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.5,00,000/- on or before 30.09.2015 and remits the balance amount outstanding in six equal and successive monthly installments commencing from 30.10.2015, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.
- (ii) On the petitioner paying the first installment of Rs.5,00,000/- on or before 30.09.2015, the respondent bank shall temporarily restore possession of the secured asset (stated to be the residential house of the petitioner) to the petitioner, on condition that if the petitioner defaults in any of the conditions in this judgment, then the respondent bank will be free to take back physical possession of the secured asset, without getting further orders from any forum.
- (iii) It is made clear that if the petitioner commits a default in respect of any of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE