

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. 26704 of 2015 (K)

PETITIONER(S):

**V.N.RAJESH, AGED 39 YEARS,
S/O.W.NARAYANAN KUTTY MENON, VARIKKOLIL HOUSE,
NETHAJI ROAD, EDAPPALLY, KOCHI - 682 024.**

**BY ADVS.SRI.V.B.NARAYANAN
SRI.M.P.HARIKUMARAN PILLAI
SRI.C.SIVADAS
SRI.CIBI C.CHEERAN**

RESPONDENT(S):

- 1. AUTHORISED OFFICER,
HOUSING DEVELOPMENT FINANCE CORPORATION (HDFC),
HDFC HOUSE, RAVIPURAM JUNCTION, M.G.ROAD,
ERNAKULAM, KOCHI - 682 015.**
- 2. HOUSING DEVELOPMENT FINANCE CORPORATION,
HDFC HOUSE, RAVIPURAM,
KOCHI - 682 015, REP. BY ITS GENERAL MANAGER.**

BY SMT.S.AMBILY

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

PJ

WP(C).No. 26704 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: LETTER DATED 8.7.2015 ISSUED BY THE IST RESPONDENT

**EXT.P-2: ENCUMBRANCE CERTIFICATE NO.9178/2015 OF MARADU SRO DATED
16.7.2015**

EXT.P-3: REPRESENTATION DATED 27.7.2015 SUBMITTED BY THE PETITIONER

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.26704 of 2015
.....
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 and defaulted in repayment of the same, is aggrieved by the sale effected by the respondent bank of the property that was offered by the petitioner as security for the loan availed. When the matter came up for admission, it is pointed out by counsel for the respondents that, pursuant to the SARFAESI proceedings initiated by them, the property was already sold and the sale was confirmed in favour of the buyer, who is stated to have obtained an encumbrance certificate in respect of the property recording the fact of sale to the said person. Under the said circumstances, I am of the view that, the present writ petition which seeks to set aside the said sale cannot be maintained under Article 226 of the Constitution of India. The writ petition is therefore dismissed without prejudice to the right of the petitioner to avail the statutory remedy under the SARFAESI Act in accordance with law.

A.K.JAYASANKARAN NAMBIAR
JUDGE

