

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937**

**WP(C).No. 27034 of 2015 (D)**  
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**PETITIONER:**  
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**SEBASTIAN THOMAS,  
S/O.THOMAS, AGED 35 YEARS,  
CHIRACKAL HOUSE, POONJAR SOUTH P.O.,  
ERATTUPETTA, KOTTAYAM DISTRICT - 686531.**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN  
SRI.M.D.SASIKUMARAN  
SRI.GEORGE MATHEW  
SRI.SUNIL KUMAR A.G  
SRI.DIPU JAMES**

**RESPONDENTS:**  
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- 1. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,  
HEAD OFFICE BUILDING KOTTAYAM,  
REPRESENTED BY GENERAL MANAGER - 686002.**
- 2. THE AUTHORISED OFFICER & CHIEF MANAGER,  
KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,  
HEAD OFFICE BUILDING KOTTAYAM - 686002.**
- 3. KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,  
ERATTUPETTA BRANCH,  
REPRESENTED BY ITS MANAGER,  
ERATTUPETTA, KOTTAYAM DISTRICT - 686531.**
- 4. PREETHY M.J, ADVOCATE COMMISSIONER,  
WEST OF POLICE PARADE GROUND,  
BEHIND COLLECTORATE, KOTTAYAM - 688002.**

**R1 TO R3 BY ADV. SRI.SUNIL CYRIAC,SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 08-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**mbr/**

**WP(C).No. 27034 of 2015 (D)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**  
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**EXT. P1:- TRUE COPY OF THE NOTICE NO SEC & V/3186 2014-2015  
DATED 13/11/2014.**

**EXT. P2:- TRUE COPY OF NOTICE DATED 26/8/2015.**

**RESPONDENTS' EXHIBITS: NIL.**

**//TRUE COPY//**

**P.S. TO JUDGE**

**mbr/**

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.27034 of 2015

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Dated this the 8<sup>th</sup> day of September, 2015

**J U D G M E N T**

The petitioner, who had availed of a loan from the 1<sup>st</sup> 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.P2 is the notice of the Advocate commissioner. 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 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 is stated to be Rs.3,64,739/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,64,739 /- together with accrued interest in six equal and successive monthly instalments commencing from 30.09.2015, and continues to keep up the regular instalments as per the original loan schedule, then 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**

mns

