

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 27049 of 2015 (E)

PETITIONER(S):

**VINODINI JAYACHANDRAN, AGED 41 YEARS,
W/O JAYACHANDRAN D., NAD P.O., ALUVA,
ERNAKULAM DISTRICT-683 563.**

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT(S):

**AUTHORIZED OFFICER,
M/S. SUNDARAN BNP PARIBAS HOME FINANCE LTD.,
IIND FLOOR, ELIZABETH ALEXANDER MEMORIAL BUILDING,
OPP: RAINBOW BRIDGE, MARINE DRIVE, KOCHI-682 031,
REGISTERED OFFICE-21, PATULLOS ROAD, CHENNAI-600 002.**

BY ADV. SRI.VARGHESE C. KURIAKOSE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 27049 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE PHOTOCOPY OF THE OF DISBURSEMENT MEMO DT. 30/4/14 ISSUED BY THE RESPONDENT BANK.

EXT.P2: TRUE PHOTOCOPY OF THE BILL DT. 13/5/2015 ISSUED TOWARDS TREATMENT CHARGES BY SUNRISE HOSPITAL, KOCHI.

EXT.P3: TRUE PHOTOCOPY OF THE DEMAND NOTICE DT. 1/2/15 ISSUED UNDER SECTION 13(2) OF SARFAESI ACT.

EXT.P4: TRUE PHOTOCOPY OF THE CASH REMITTANCE RECEIPT DT. 12/3/15 ISSUED BY RESPONDENT.

EXT.P4(A): TRUE PHOTOCOPY OF THE CASH REMITTANCE RECEIPT DT. 16/3/15 ISSUED BY RESPONDENT.

EXT.P5: TRUE PHOTOCOPY OF THE POSSESSION NOTICE DT. 4/8/15 ISSUED BY RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.27049 of 2015
.....
Dated this the 15th day of October, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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 possession notice. In the writ petition, the petitioner impugns the steps initiated by the respondent company 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 company.

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 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.3,46,294/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,46,294/- together with accrued interest in eight equal and successive monthly instalments commencing from 01.11.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings against the petitioner 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 company will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE