

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. 27073 of 2015 (H)

PETITIONER(S):

**BINU K. AGED 75 YEARS
S/O K.N. KUTTAPPAN, SHANTHI BHAVAN, NEDUMAN PO
EZHAMKULAM , ADOOR TALUK, PATHANAMTHITTA (DIST)**

**BY ADVS.SRI.BIMAL K.NATH
SRI.SREEVALSAN.V
SMT.M.K.SHIMI
SMT.DIVYA C BALAN
SRI.D.SREENATH**

RESPONDENT(S):

- 1. AUTHORISED OFFICER
PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK
PATHANAMTHITTA -689 645**
- 2. THE MANAGER
PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK
PATHANAMTHITTA -689 645**
- 3. THE BRANCH MANAGER
PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK
ENATHU BRANCH, ADOOR, PATHANAMTHITTA -689 645**

R BY SRI.V.PHILIP MATHEW , STANDING COUNSEL

**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.P1: A TRUE COPY OF THE DISCHARGE RECORD OF THE PETITIONERS
 FATHER**
- EXT.P2: A TRUE COPY OF THE NOTICE DT. 3/12/14 ISSUED BY THE 1ST
 RESPONDENT**
- EXT.P3: A TRUE COPY OF THE NOTICE PUBLISHED IN MATHRUBHUMI DAILY
 ON 13/8/15**

RESPONDENT(S)' EXHIBITS

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 27073 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.P3 is the auction notice issued to the petitioner under the SARFAESI Act. 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 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 overdue amount, in respect of the loan, is stated to be Rs.2,77,680/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,77,680/- together with accrued interest from 09.09.2015, in seven equal and successive monthly installments commencing from 15.10.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him 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 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