

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 27166 of 2015 (U)

PETITIONER(S):

**MUHAMMED M.P AGED 58 YEARS
S/O KUNHI MOIDEEN KUTTY, KELEPURATH HOSUE
ULLANAM P.O., MALAPPURAM-676303.**

BY ADV. SRI.E.S.ASHRAF

RESPONDENT(S):

- 1. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD
REPRESENTED BY ITS GENERAL MANAGER, HEAD OFFICE
MALAPPURAM-676505.**
- 2. THE AUTHORIZED OFFICER (UNDER THE SARFAESI ACT)
DEPUTY GENERAL MANAGER
THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.
HEAD OFFICE, MALAPPURAM-676505.**
- 3. THE STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
CO-OPERATIVE DEPARTMENT, GOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM-695001.**

**R BY GOVERNMENT PLEADER, SMT. LILLY K.T.
R BY SRI.E.S.M.KABEER,SC,MALAPPURAM DIST.CO-OPERATIVE BANK LTD**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE RELEVANT PAGES OF THE LOAN PASS BOOK.
- EXHIBIT P2: TRUE COPY OF THE RECEIPTS ISSUED BY THE BANK.
- EXHIBIT P3: TRUE COPY OF THE PROCEEDINGS DATED 21.10.2011 ISSUED BY THE DISTRICT COLLECTOR.
- EXHIBIT P4: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE DEBT RELIEF COMMISSION.
- EXHIBIT P5: TRUE COPY OF THE POSSESSION NOTICE DATED 4.8.2014 ISSUED BY THE 2ND RESPONDENT PUBLISHED IN CHANDRIKA NEWS DAILY DATED 10.8.2014.
- EXHIBIT P6: TRUE COPY OF THE NOTICE FOR CONDUCTING INSPECTION ISSUED BY THE ADVOCATE COMMISSIONER.
- EXHIBIT P7: TRUE COPY OF THE JUDGMENT DATED 19.5.2015.
- EXHIBIT P8: TRUE COPY OF THE RECEIPT DATED 10.6.2015 OF THE PAYMENT OF 1ST INSTALLMENT.
- EXHIBIT P9: TRUE COPY OF THE STATEMENT DATED 6.6.2015 ISSUED BY THE BANK.
- EXHIBIT P10: TRUE COPY OF THE REPRESENTATION BEFORE THE HON'BLE MINISTER FOR CO-OPERATION DATED 27.7.2015.
- EXHIBIT P11: TRUE COPY OF THE PETITION DETAILS OF EXHIBIT P10 RECEIVED FROM THE OFFICE OF THE HON'BLE MINISTER FOR CO-OPERATION.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 27166 of 2015

Dated this the 28th 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.P6 is the notice issued to the petitioner by the Advocate Commissioner 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 outstanding amount, in respect of the loan, is stated to be Rs.6,85,466/-; out of this amount, the respondent bank has agreed to waive an amount of Rs.1,05,000/- towards the accrued interest. As a result, the total outstanding amount of the petitioner to the respondent bank, as of today, is Rs.5,80,466/-. Accordingly, if the petitioner remits the aforesaid amount of Rs.5,80,466/- in ten equal and successive monthly installments commencing from 15.10.2015, 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