

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. 28251 of 2015 (F)

PETITIONER :

**PADAR MUSTHAF,
S/O.PADAR ANDUNHI, AGED 62, PROPRIETOR,
BRITANIA BAKERY, MAJID COMPLEX, M.G.ROAD,
KASARAGOD, PIN-671 121.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE
SRI.S.NITHIN (ANCHAL)**

RESPONDENT(S):

- 1. THE KERALA GRAMIN BANK,
RECOVERY & LEGAL DEPARTMENT, KGB TOWERS, PALLIKUNNU,
KANNUR-670 004, REPRESENTED BY ITS CHIEF MANAGER.**
- 2. AUTHORIZED OFFICER,
THE KERALA GRAMIN BANK, KASARAGOD BRANCH,
TIGER HILLS, MUNICIPAL ROAD, KASARAGOD -671 121.**

**BY ADVS. SRI.DEVAN RAMACHANDRAN
SRI.K.M.ANEESH
SRI.ADARSH KUMAR
SRI.DILEEP CHANDRAN**

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

sts

WP(C).No. 28251 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 - TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE BANK DT.
16.10.2012**
- P2 - TRUE COPY OF THE NOTICES ISSUED TO THE PETITIONER BY THE BANK
DT. 26.10.2013**
- P3 - TRUE COPY OF THE NOTICE ISSUED UNDER RULE 8(1) OF SARFAESI ACT
PUBLISHED IN UTHARADESAM DAILY, KASARAGOD EDITION DATED 17.8.2015**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.28251 of 2015

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Dated this the 13th day of October, 2015

J U D G M E N T

The petitioner who had availed of two loans 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 possession notice. 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 for the petitioner and the learned Standing Counsel appearing on behalf of 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 outstanding amount from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.5,53,414/- together with accrued interest as on 22.09.2015. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,53,414/- together with accrued interest in eight equal and successive monthly instalments commencing from 01.11.2015, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

(iii) 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