

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C) .No. 28438 of 2015 (P)

PETITIONERS:

1. BINDU S. AGED 53 YEARS
W/O. SANTHAKUMAR KACHERIPADAM KALAM, VITHINASSERY
VALLANGI POST, NENMARA VIA, CHITTUR TALUK
PALAKKAD DISTRICT
2. SANTHAKUMAR K
S/O.KESAVAPANICKER, KACHERIPADAM KALAM, VITHINASSERY
VALLANGI POST, NENMARA VIA, CHITTUR TALUK
PALAKKAD DISTRICT

BY ADVS.SRI.KURIAN GEORGE KANNANTHANAM (SR.)
SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENTS:

1. RESERVE BANK OF INDIA
SHAHID BHAGAT SINGH MARG, MUMBAI, STATE OF MAHARASHTRA
REPRESENTED BY THE GOVERNOR-400001
2. SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
NO.21 PATULLOS ROAD,
CHENNAI 600 002 [SUNDARAM BNP PARIBAS HOME FINANCE LTD
1ST FLOOR,SUNDARAM TOWERS NO 46, WHITES ROAD,
CHENNAI 600014) REP. BY THE MANAGING DIRECTOR
3. THE AUTHORISED OFFICER
SUNDARAM BNP PARIBAS HOME FINANCE LTD, 1ST FLOOR
SUNDARAM TOWERS NO 46 WHITES ROAD, CHENNAI 600014

R2,R3 BY ADV. SRI.VARGHESE C.KURIAKOSE
R BY SRI.K.S.DILIP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 28438 of 2015 (P)

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE NOTICE DATED 24-02-2014 ISSUED BY THE
RESPONDENT NO 3 INVOKING SEC.13(4) OF THE SARFAESI ACT

EXHIBIT P2 TRUE COPY OF THE COMMISSION REPORT FILED IN SA NO
188/2014 ON THE FILE OF DEBT RECOVERY TRIBUNAL AT ERNAKULAM

EXHIBIT P3 TRUE COPY OF THE NOTICE ISSUED IN AUGUST 2015 BY THE
ADVOCATE COMMISSIONER, WHO WAS APPOINTED IN CMP NO
3821/2015 ON THE FILE OF CHIEF JUDICIAL MAGISTRATE'S
COURT, PALAKKAD

EXHIBIT P4 TRUE COPY OF THE RODER DATED 04-09-2015 PASSED IN IA NO
2267/2015 IN SA NO 188/2014 ON THE FILE OF DEBT RECOVERY
TRIBUNAL AT ERNAKULAM

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A.TO JUDGE

sm

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No. 28438 of 2015

Dated this the 30th day of October 2015

JUDGMENT

The petitioners, 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. The petitioners had approached the Debts Recovery Tribunal through S.A.No.188/2014. Ext.P4 is the order passed in an I.A. filed in the said S.A., where the petitioners were directed to make certain payments as a condition for keeping in abeyance steps initiated against the secured assets. In the writ petition, the petitioners impugn Ext.P4 order as well, on the ground that it imposes very onerous conditions which the petitioners cannot fulfill.

2. I have heard the learned senior counsel appearing for the petitioners 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 dispose the writ

petition with the following directions:-

- (i) The total overdue amount, in respect of the loan, is stated to be Rs.1,23,21,366/- together with accrued interest. This amount is stated to be after giving credit to the payment of Rs.15,00,000/-, that was made by the petitioners pursuant to the interim order of this Court dated 18.09.2015. Accordingly, if the petitioners pay the balance amounts required for regularisation of the loan account, by paying Rs.10,00,000/- on or before 16.11.2015 and the balance amounts in eight equal and successive monthly installments commencing from 15.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against them by the respondent bank shall be kept in abeyance.
- (ii) It is made clear that if the petitioners commit a default in respect of any of the installments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm