

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 28581 of 2015 (W)

PETITIONER(S):

**JOY JOHN, AGED 67 YEARS,
SON OF JOHN, FLAT NO.4B,
SSK ENCLAVE, DEEVAR ROAD,
PERUMANOOR ROAD, THEVARA- 682 015.**

**BY ADVS.SRI.G.HARIHARAN,
SRI.PRAVEEN.H.**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
(APPOINTED UNDER THE SECURITISATION AND
RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT 2002),
M/S. FEDERAL BANK LTD., THODUPUZHA MAIN BRANCH,
FIRST FLOOR, PULIMOOTTIL ROY ROJERS TOWERS,
THODUPUZHA, IDUKKI DISTRICT- 685 584.**
- 2. M/S.FEDERAL BANK LTD.,
THODUPUZHA MAIN BRANCH, FIRST FLOOR,
PULIMOOTTIL ROY ROJERS TOWERS,
THODUPUZHA, IDUKKI DISTRICT- 685 584,
REPRESENTED BY ITS CHIEF MANAGER &
THE AUTHORISED OFFICER, (APPOINTED UNDER THE
SECURITISATION AND RECONSTRUCTION OF
FINANCIAL ASSETS AND ENFORCEMENT OF
SECURITY INTEREST ACT 2002).**

**BY ADVS. SRI.A.ANTONY,
SMT.LEELAMMA ANTONY.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1 COPY OF THE STATUTORY DEMAND NOTICE ISSUED BY THE
RESPONDENT BANK UNDER SECTION 13(2) OF THE SECURITISATION
AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT
OF SECURITY INTEREST ACT, 2002.**

**EXHIBIT P2 COPY OF THE REPLY MADE BY THE PETITIONER UNDER
SECTION 13(3A) OF THE SECURITISATION AND RECONSTRUCTION
OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY
INTEREST ACT, 2002.**

**EXHIBIT P3 COPY OF THE RELEVANT PORTION OF MINUTES OF THE
104TH MEETING OF THE STATE LEVEL BANKERS COMMITTEE,
KERALA HELD ON 30/09/2011.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.28581 OF 2015 (W)

Dated this the 6th day of November, 2015

J U D G M E N T

The petitioner, who had availed of 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.P1 is the notice issued to the petitioner under Section 13(2) of 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 for the petitioner as also the learned Standing counsel appearing for 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 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 amount outstanding from the petitioner to the respondent bank, is stated to be Rs.8,50,185/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.8,50,185/- together with accrued interest in ten equal and successive monthly installments commencing from 30.11.2015, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/6/11/15