

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. 28909 of 2015 (K)

PETITIONER :

**T.S.MOHANAN, AGED 48 YEARS,
S/O.SREEDHARAN, KOICKAMANNIL THADATHIL,
UTHIMOODU (P.O)., RANNI,
PATHANAMTHITA DISTRICT**

**BY ADVS.SRI.S.SHANAVAS KHAN
SMT.S.INDU**

RESPONDENT(S):

- 1. THE ANDHRA BANK,
PATHANAMTHITTA BRANCH, TRINITY COMPLEX., T.K. ROAD,
PATHANAMTHITTA,PIN-686 545,
REPRESENTED BY ITS BRANCH MANAGER,**
- 2. THE CHIEF MANAGER /AUTHORISED OFFICER,
THE ANDHRA BANK, PATHANAMTHITTA BRANCH,
TRINITY COMPLEX., T.K. ROAD, PATHANAMTHITTA-686 545**

**R1 & R2 BY ADVS. SRI.ABRAHAM MATHEW (VETTOOR)
SRI.SRI.ANIL ABEY JOSE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 28909 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE DISCHARGE SUMMARY ISSUED FROM ST. GREGORIOUS CARDIO-VASCULAR CENTRE, PARUMALA, PATHANAMTHITTA.
- EXT.P2: TRUE COPY OF THE NOTICE DT. 3/7/15 ISSUED UNDER 13 (2) OF THE ACT BY THE SECOND RESPONDENT
- EXT.P3: TRUE COPY OF THE POSSESSION NOTICE DT. 10/9/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER
- EXT.P4: TRUE COPY OF THE POSSESSION NOTICE PUBLISHED IN 'MANGALAM' DAILY DT. 16/9/2015

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.28909 of 2015

.....
Dated this the 30th day of October, 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.P3 is the possession notice issued under Section 13(4) 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 on behalf of the petitioner 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 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.4,00,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,00,000/- together with accrued interest in six equal and successive monthly instalments commencing from 30.11.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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

mns/30.10.15

