

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 29236 of 2015 (D)

PETITIONER(S):

**JAYARAJ G.,
LITTLE FLOWER HOUSE, R.S. STREET,
BALARAMAPURAM, THIRUVANANTHAPURAM.**

BY ADV. SRI.B.KRISHNA MANI.

RESPONDENT(S):

- 1. AUTHORISED OFFICER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,
BALARAMAPURAM EVENING BRANCH, BALARAMAPURAM,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE BRANCH MANAGER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,
BALARAMAPURAM EVENING BRANCH,
THIRUVANANTHAPURAM DISTRICT - 695 001.**

BY ADV. SRI.T.R.HARIKUMAR, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P-1: TRUE COPY OF THE RELEVANT PORTION OF THE PASS BOOK
- EXT.P-2: TRUE COPY OF THE NOTICE DATED 07.09.2015 FROM THE
AUTHORISED OFFICER THIRUVANANTHAPURAM DISTRICT
CO-OPERATIVE BANK LTD., BALARAMAPURAM, EVENING BRANCH,
BALARAMAPURAM, THIRUVANANTHAPURAM.
- EXT.P-3: TRUE COPY OF THE NOTICE DATED 07.09.2015 FROM THE
AUTHORISED OFFICER UNDER THE PROVISIONS OF
SECURITIZATION AND RECONSTRUCTION OF FINANCIAL
ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 29236 of 2015

Dated this the 1st day of October, 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.P3 is the notice issued to the petitioner 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 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 overdue amount, in respect of the loan, is stated to be Rs.4,05,257/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,05,257/- together with accrued interest in twelve equal and successive monthly installments commencing from 01.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, 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