

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

WP(C).No. 29784 of 2015 (W)

PETITIONERS :

- 1. BABU A., AGED 52 YEARS, S/O.BHASKARAN,
PERINGATHUPUTHENPURAYIL, IRINGAL POST
PAYYOLI, BADAGARA.**
- 2. NIRMALA N., AGED 45 YEARS, W/O.BABU A.,
PERINGATHUPUTHENPURAYIL, IRINGAL POST
BADAGARA.**

**BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.P.P.RAMACHANDRAN**

RESPONDENTS :

- 1. SUNDARAM BNP PARIBAS HOME FINANCE LTD.
2ND FLOOR, BMT CENTRE, MINI BYE-PASS ROAD
PUTHIYARA, CALICUT-673004, REPRESENTED BY ITS MANAGER.**
- 2. AUTHORIZED OFFICER,
SUNDARAM BNP PARIBAS HOME FINANCE LTD.
SUNDARAM TOWERS, 1ST FLOOR, NO.46
WHITES ROAD, ROYALPETTAH, CHENNAI-600014.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 29784 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY OF THE POSSESSION NOTICE ISSUED BY THE R2.

P1(A): COPY OF THE POSSESSION NOTICE ISSUED BY THE R2.

**P2: COPY OF THE POSSESSION NOTICE PUBLISHED IN MALAYALA MANORAMA
DAILY.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.29784 OF 2015 (W)

Dated this the 2nd day of November, 2015

J U D G M E N T

The petitioners, who had availed of two loans from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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. Exts.P1 and P1(a) are the copy of the possession notices issued to the petitioners under the SARFAESI Act. In the writ petition, the petitioners impugn the steps initiated by the respondent company for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioners. There is no appearance for the respondents despite service of notice.

3. The total amount outstanding from the petitioners as on today, as discernible from Ext.P2 notice issued to the petitioners, is

stated to be Rs.48,22,851/- together with accrued interest and other charges. Counsel for the petitioners would submit that they are in the process of selling another property of theirs and they will have the required funds to wipe out the liability within four months from today. Under the said circumstances, I dispose the writ petition with the following directions:-

- (i) If the petitioners pay the total outstanding amount of Rs.48,22,851/- together with accrued interest and other charges within four months from today, then the further proceedings for recovery shall be kept in abeyance.
- (ii) It is further 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 company will be free to continue the recovery proceedings against them from the stage at which they presently stand.
- (iii) I make it clear that nothing in this judgment shall stand in the way of the petitioners approaching the respondent company with a proposal for a One Time Settlement based on any scheme that is in vogue. If the petitioners approach the respondent company with such an application, the respondent

company shall consider the same and intimate the petitioners of its decision in the matter immediately so as to enable the petitioners to comply with the directions in this judgment regarding repayment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/2/11/15