

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. 29851 of 2015 (F)

PETITIONER(S) :

**KOLLARIKKAL KRISHNAN KUTTY, AGED 60 YEARS,
S/O.SRI.AYYAPPAN, KOLLARIKKAL HOUSE,
PADINHAREKKARA POST, PURATHURAMSOM, TIRUR TALUK,
MALAPPURAM DISTRICT- 676 562.**

BY ADV. SRI.RAJAN KUDUMBATHIL

RESPONDENT(S) :

**THE TIRUR URBAN CO - OPERATIVE BANK LTD.,
F1818, TIRUR, MALAPPURAM,
REPRESENTED BY ITS ASSISTANT GENERAL MANAGER,
IN CHARGE/AUTHORISED OFFICER, TIRUR,
MALAPPURAM DISTRICT (PIN-676 104**

BY ADV. SRI.M.SASEENDRAN, S.C,

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

Msd.

WP(C).No. 29851 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: A TRUE COPY OF THE NOTICE DATED 30.10.2013 ISSUED BY
THE RESPONDENT TO THE PETITIONER.**

**EXHIBIT P2: A TRUE COPY OF THE PETITION IN C.M.P.NO.2644 OF 2015 FILED
BY THE RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE
COURT, MANJERI.**

**EXHIBIT P3: A TRUE COPY OF THE NOTICE DATED 31.08.2015 ISSUED BY
THE ADVOCATE COMMISSIONER TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.29851 of 2015
.....
Dated this the 1st 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 notice issued by the Advocate Commissioner. 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 for the petitioner and the learned Standing Counsel appearing on behalf of 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 outstanding amount from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.2,52,645/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,52,645 /- together with accrued interest in eight equal and successive monthly instalments commencing from 20.10.2015, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

(iii) 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

