

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. 30033 of 2015 (D)

PETITIONER(S) :

**SOBHA PAUL @ JUDIT, W/O.P.B.PAUL,
PANEZHATHU HOUSE, KATTOOR P.O., KALAVOOR,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.K.C.SUDHEER

RESPONDENT(S) :

- 1. AUTHORISED OFFICER,
INDIAN OVERSEAS BANK, KOMALAPURAM BRANCH,
PATHRAPPALLY P.O., ALAPPUZHA DISTRICT.**
- 2. SENIOR MANAGER,
INDIAN OVERSEAS BANK, KOMALAPURAM BRANCH,
PATHIRAPPALLY P.O., ALAPPUZHA.**

BY ADV. SRI.SUNIL SHANKAR, SC, INDIAN OVERSEAS BANK

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

Msd.

WP(C).No. 30033 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: TRUE COPY OF THE PLAINT IN O.S.NO.686 OF 2015 FILED BEFORE
THE MUNSIFF'S COURT, ALAPPUZHA ALONG WITH SUMMONS
FOR APPEARANCE OF THE PETITIONER ON 26.10.2015.**

**EXHIBIT P2: TRUE COPY OF THE NOTICE ISSUED BY ADVOCATE
COMMISSIONER IN M.C.NO.315 OF 2015 ON THE FILES OF CHIEF
JUDICIAL MAGISTRATE COURT, ALAPPUZHA.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.30033 OF 2015 (D)

Dated this the 2nd 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. It is stated that simultaneously the bank also filed a civil suit for recovery of the loan amounts from the petitioner and the said suit [O.S.No.686/2015] is pending before the Munsiff Court, Alappuzha. In the writ petition, the petitioner impugns the steps initiated by the respondent bank under the SARFAESI Act by approaching the Chief Judicial Magistrate, Alappuzha, under Section 14 of the SARFAESI Act and getting the Advocate Commissioner appointed to take over the possession of the secured assets. It is submitted by counsel for the petitioner that if she is given some time to effect repayment of the entire amounts, she will be able to discharge the liability due to the respondent bank.

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 and 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.3,23,375.64 together with accrued interest and other charges. Accordingly, if the petitioner pays the said amount of Rs.3,23,375.64 together with accrued interest and other charges in ten equal and successive monthly installments commencing from 30.11.2015, then the further proceedings initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from

the stage at which they presently stand.

(iii) The respondent bank shall furnish the petitioner with an up-to-date statement of the outstanding amounts including interest and other charges within a period of one week from the date of receipt of a copy of this judgment, so as to enable the petitioner to comply with the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/2/11/15