

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).NO. 30226 OF 2015 (C)

PETITIONER(S):

SUNIL M.S,S/O.SREEDHARAN,
MAROTTIKKAL HOUSE, MOTHER LAND STREET
PADAVARAD DESOM, OLLUR VILLAGE, OLLUR PO
THRISSUR 680322

BY ADV. SRIP.S.SUJETH

RESPONDENT(S):

1. THE BRANCH MANAGER, STATE BANK OF INDIA
KURIACHIRA BRANCH, SHYJA ARCADE
KURIACHIRA, THRISSUR DT.

2. THE CHIEF MANAGER/AUTHORIZED OFFICER
STATE BANK OF INDIA, RASMEC, II FLOOR
WEST PALLITHANAM BLDG, KARUNAKARAM NAMBIAR ROAD
THRISSUR 680020

R1-R2 BY ADV. SRI.R.S.KALKURA,S.C.,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .NO. 30226 OF 2015 (C)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1:TRUE COPY OF THE REPRESENTATION DATED 29.08.2015

P2:TRUE COPY OF THE POSSESSION NOTICE AFFIXED DATED 19.09.2015

P2: A TRUE COPY OF THE TURNOVER DETAILS (VAT GOODS) OF THE
PETITIONER'S BUSINESS DATED 10.11.2014 TO 25.10.2015

RESPONDENT(S) ' EXHIBITS:

EXHIBIT:R1(A):TRUE COPY OF THE AGREEMENT OF LOAN-CUM-HYPOTHECATION,
DATED 04.05.2011, EXECUTED BY THE PETITIONER.

EXHIBIT R1(B):TRUE COPY OF THE LETTER OF ARRANGEMENT DATED
04.05,2011, EXECUTED BETWEEN THE RESPONDENT AND THE PETITIONER.

EXHIBIT R1(C):TRUE COPY OF THE LETTER OF ARRANGEMENT DATED
07.02.2014, EXECUTED BETWEEN THE RESPONDENT AND THE PETITIONER.

EXHIBIT R1(D):TRUE COPY OF THE INSPECTION REPORT DATED 19.09.2015
CARRIED OUT BY THE MANAGER, SBI, RASMECCC THRISSUR

EXHIBIT R1(E):TRUE COPY OF THE REPORT DATED 31.10.2015 OF THE SARB
BRANCH OF THE BANK IN RESPECT OF THE INSPECTION CARRIED OUT IN THE
PETITIONER'S UNIT AS WELL AS HIS RESIDENCE

EXHIBIT R1(F):TRUE COPY OF THE RELEVANT PAGES OF THE RBI CIRCULAR
BEARING NO.DBOD NO.BP.BC.9/21.04.048/2014-15 DATED 01.07.2014

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.30226 of 2015

.....
Dated this the 18th 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. Ext.P2 is the possession notice issued by the respondent bank. 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 amount outstanding from the petitioner to the respondent bank, in respect of the loan, as on 15.07.2015, is stated to be Rs.17,71,340/- together with accrued interest. Accordingly, if the petitioner pays the entire amount of Rs.17,71,340/- together with accrued interest from 15.07.2015 in 15 equal and successive monthly instalments commencing from 20.12.2015, 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

