

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 30760 of 2015 (T)

PETITIONER :

**JAFAR KUNHIPPURAYIL,
AGED 41 YEARS, S/O.KUNHIPPURAYIL AMMAD
KUNHIPPURAYIL HOUSE, POOLAKKKOOL.P.O., MEADI (VIA)
CALICUT-673507.**

BY ADV. SRI.T.B.SHAJIMON

RESPONDENT :

**AXIS BANK LTD.,
RETIAL ASSETS CENTRE
KOZHIKODE- 673 513
(REPRESENTED BY ITS AUTHORIZED OFFICER)**

**BY ADVS. SRI.T.K.RAJESHKUMAR
SMT.T.N.BINDU
SRI. T.B.SHAIJAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 30760 of 2015 (T)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1: THE PHOTOCOPY OF THE NOTICE BY THE ADVOCATE COMMISSION
DATED 28/09/2015.

EXT.P2: THE PHOTO STAT COPY OF THE CMP. NO.1333/2015 BEFORE THE
HON'BLE C.J.M. COURT, KOZHIKODE.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 30760 of 2015

Dated this the 22nd day of December, 2015

JUDGMENT

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.P1 is the notice issued to the petitioner by the Advocate Commissioner under 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.12,42,908/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.12,42,908/- together with accrued interest in three equal and successive monthly installments commencing from 30.01.2016, and continues to keep up the regular installments 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.
- (iii) The respondent bank shall, within ten days from today, provide the petitioner with an upto-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE