

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WP(C).No. 31184 of 2015 (W)

PETITIONER(S) :

**MRS.RANI SEBASTIAN, AGED 44 YEARS,
W/O.SEBASTIAN, THEKKANATH PALATTY HOUSE, CHUNAGAMVELY,
KIZHUMAD, ERUMATHALA.P.O., ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.SHAIJAN JOSEPH
SRI.K.K.AJI KUMAR**

RESPONDENT(S) :

- 1. HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED,
RAVIPURAM JUNCTION, M.G.ROAD, KOCHI, PIN-682 015,
REPRESENTED BY ITS REGIONAL MANAGER.**
- 2. HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED,
RAVIPURAM JUNCTION, M.G.ROAD, KOCHI, PIN-682 015,
REPRESENTED BY ITS AUTHORIZED OFFICER.**

**BY SRI.K.K.CHANDRAN PILLAI (SENIOR ADVOCATE)
ADVS. SMT.S.AMBILY
SMT.K.V.SHENU**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 31184 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS :

**P1: TRUE COPY OF POSSESSION NOTICE PUBLISHED IN MATHRUBHUMI
DAILY ON 30.09.2015 BY THE RESPONDENT.**

**P2: TRUE COPY OF NOTICE DATED 30.09.2015 ISSUED BY THE RESPONDENT
TO THE PETITIONER DEMANDING PAYMENT WITHIN 30 DAYS.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.31184 OF 2015 (W)

Dated this the 15th day of October, 2015

J U D G M E N T

The petitioner, whose husband had availed of a housing loan from the respondent Corporation, defaulted in repayment of the same. Consequently, the respondent Corporation initiated proceedings against the petitioner and her husband 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 possession notice issued to the petitioner under the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent Corporation for recovery of the loan amounts.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondent Corporation.

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 her 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 availed by the petitioner's husband, is stated to be Rs.5,87,925/- together with accrued interest. Accordingly, if the petitioner remits the above amount of Rs.5,87,925/- together with accrued interest, in six equal and successive monthly installments commencing from 02.11.2015, and continues to keep up the monthly repayments as per the original loan schedule, then the recovery steps, if any, initiated against her by the respondent Corporation shall be kept in abeyance.

(ii) It is 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 Corporation will be free to continue the recovery proceedings against her from the stage at which they presently stand.

(iii) I make it clear that on the petitioner paying the aforesaid amount of Rs.5,87,925/- together with accrued interest either within the time granted by

this Court in this judgment or before that, the respondent Corporation shall handover possession of the secured assets to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/15/10/15