

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937H

WP(C).No. 31824 of 2015 (C)

PETITIONER :

**SAMUEL L.,
KARIMANIKKUNNU, NADARKONAM, VELLARADA
VELLARADA P.O., THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S) :

- 1. THIRUVANANANTHAPURAM DISTRICT CO-OPERATIVE BANK LIMITED
REPRESENTED BY THE GENERAL MANAGER, HEAD OFFICE
EAST FORT, THIRUVANANTHAPURAM DISTRICT-695 023.**
- 2. THE AUTHORIZED OFFICER UNDER THE SARFAESI ACT
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LIMITED
HEAD OFFICE, EAST FORT, THIRUVANANTHAPURAM DISTRICT-695 023.**
- 3. THE BRANCH MANAGER
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD.,
VELLARADA BRANCH, VELLARADA,
THIRUVANANTHAPURAM DISTRICT-695 543.**

R1 TO R3 BY ADV. SRI.T.R.HARIKUMAR, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 31824 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1 : COPY OF THE NOTICE DTD.18.8.2014.

EXT. P2 : COPY OF THE MAHAZAR OF THE 2ND RESPONDENT DTD.18.8.2014.

EXT. P3 : COPY OF THE RECEIPT SHOWING PAYMENT.

EXT. P4 : COPY OF THE REPRESENTATION OF THE PETITIONER.

**EXT. P5 : COPY OF THE AUCTION NOTICE OF THE 2ND RESPONDENT
DTD.17.9.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31824 of 2015

.....
Dated this the 27th day of October, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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.P5 is the auction 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 appearing on behalf of the petitioner as also the learned Standing counsel for the respondent bank. The learned Standing counsel for the respondent bank vehemently opposes the grant of any relief to the petitioner in the present case as the petitioner has approached this Court only after the sale notice was published by 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.3,08,000/- together with accrued interest and other charges. Considering the fact that, the petitioner has approached this Court only on the eve of the sale scheduled to be held at the instance of the respondent bank, I direct that if the petitioner pays the aforesaid amount of Rs.3,08,000/- together with accrued interest and other charges in four equal and successive monthly instalments commencing from 16.11.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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

