

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

WP(C).No. 31919 of 2015 (L)

PETITIONER(S):

- 1. SINDHU SAJEEV, AGED 36 YEARS,
W/O.SAJEEV, VALLATHERI HOUSE,
KIDANGOOR P.O., ANGAMALI-653 872.**
- 2. V.S. SAJEEV, AGED 39 YEARS,
VALLATHERI HOUSE, KIDANGOOR P.O.,
ANGAMALI-653 872.**
- 3. SUMATHI, W/O.VASU, AGED 55 YEARS,
MUNNATTU HOUSE, MANGATTUKARA,
PULIYANAM P.O, ANGAMALI.**

**BY ADVS.SRI.C.P.UDAYABHANU,
SRI.R.MANOJ.**

RESPONDENT(S):

- 1. THE CANARA BANK, T.D. ROAD,
NORTH END, ERNAKULAM,
REPRESENTED BY ITS ASSISTANT GENERAL MANAGER,
CANARA BANK, PIN-682 018.**
- 2. THE AUTHORISED OFFICER,
(CONSTITUTED UNDER THE SECURITIZATION AND
RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITIES INTEREST ACT),
CANARA BANK, NORTH END, ERNAKULAM-682 018.**
- 3. THE BRANCH MANAGER, CANARA BANK,
ICON TOWERS, NEAR LF HOSPITAL, ANGAMALI-683 002.**

BY ADV. SRI.PAULY MATHEW MURICKEN, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE NOTICE ISSUED TO THE PETITIONERS
DATED 28/07/2015.
- EXT.P2 COPY OF THE POSSESSION NOTICE ISSUED BY THE
RESPONDENTS DATED 30/09/2015.
- EXT.P3 COPY OF THE SALE NOTIFICATION PUBLISHED IN THE
MATHRUBHUMI DAILY DATED 06/10/2015.
- EXT.P4 COPY OF THE PAY-IN-SLIP SHOWING REMITTANCE OF Rs.4 LAKHS.
- EXT.P5 COPY OF THE NOTIFICATION PUBLISHED IN MATHRUBHUMI DAILY
DATED 17/10/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.31919 of 2015

.....
Dated this the 20th day of October, 2015

J U D G M E N T

The petitioners, who had availed of a term loan as also a cash credit facility 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 sale notice. In the writ petition, the petitioners impugn 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 petitioners as also the learned Standing counsel for 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 petitioners is to permit them to remit the balance amounts outstanding to the bank in easy instalments. Taking into

account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount in respect of the term loan availed by the petitioners is stated to be Rs.5,60,101/- together with accrued interest and expenses. It is stated that the period for the cash credit facility has already expired but the amounts drawn by the petitioners are presently within the limits prescribed in the cash credit facility, and therefore, if the petitioners submit necessary papers for renewal of the cash credit facility, the same can be considered by the bank. Accordingly, if the petitioners pay the aforesaid amount of Rs.5,60,101/- together with accrued interest and other expenses in five equal and successive monthly instalments commencing from 15.11.2015, and continue to keep up the regular instalments as per the original loan schedule in the term loan account and further, comply with the conditions stipulated by the respondent bank for continuing the cash credit facility, further proceedings against the petitioners shall be kept in abeyance.

(ii) It is made clear that, if the petitioners commit a default in respect of any of the instalments, they will lose the benefit of this judgment and the respondent bank will

be free to continue the recovery proceedings against them from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

