

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 32104 of 2015 (K)

PETITIONER(S):

**SURESH KUMAR D., PARAPPURATH HOUSE,
MUTHUKULAM SOUTH P.O.,
ALAPPUZHA - 690 506.**

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT(S):

- 1. SOUTH INDIAN BANK LIMITED,
REPRESENTED BY CHIEF MANAGER/
AUTHORIZED OFFICER, REGIONAL OFFICE,
2ND FLOOR, T.M.J. COMPLEX,
RAMANCHIRA P.O., MUTHOOR,
THIRUVALLA - 689 107.**
- 2. BRANCH MANAGER,
SOUTH INDIAN BANK LIMITED,
GOKULAM, 1.271-A, NH-47,
NANGIARKULANGARA, ALAPPUZHA - 690 513.**

BY ADV. SRI.K.K.JOHN, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 32104 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE POSSESSION NOTICE DTD.7.7.2014 ISSUED BY THE
1ST RESPONDENT.**

**EXT.P2: TRUE COPY OF THE NOTICE DTD.13.10.2015 ISSUED BY THE ADVOCATE
COMMISSIONER.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32104 of 2015

Dated this the 21st day of October, 2015

JUDGMENT

The petitioner and his wife, who had availed 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 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.4,08,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,08,000/- together with accrued interest in eight equal and successive monthly installments commencing from 15.11.2015, and continues to keep up the regular installment payments 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE