

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 32205 of 2015 (A)

PETITIONER(S) :

**VIJAYAN K., AGED 57 YEARS,
S/O. KUNJUKRISHNAN, 'SAROVARAM', MULLUVILA P.O.,
NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S) :

**THE FEDERAL BANK LTD.,
REPRESENTED BY ITS AUTHORIZED OFFICER,
KANJIRAMKULAM BRANCH, THIRUVANANTHAPURAM DISTRICT,
PIN-695 001.**

**BY ADVS. SRI.REJI GEORGE
SMT.ANUPAMA JOHNY
SRI.BINOY DAVIS
SMT.SIJI JOY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 : TRUE COPY OF THE ACCOUNT STATEMENT OF PETITIONER ISSUED BY THE RESPONDENT BANK.**
- P2 : TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT BANK TO THE PETITIONER UNDER SECTION 13(2) OF SARFAESI ACT DATED 21.10.2013.**
- P3 : TRUE COPY OF THE I.A NO.2176/2014 IN O.A NO.468/2014 FILED BY THE RESPONDENT BANK BEFORE THE DEBT RECOVERY TRIBUNAL, ERNAKULAM, DATED NIL 08.2014.**
- P4 : TRUE COPY OF NOTICE IN I.A NO.2176/2014 IN O.A NO.468/2014 ISSUED BY THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM, DATED 29.09.2014.**
- P5 : TRUE COPY OF THE INVENTORY OF THE BUS PREPARED BY THE ADVOCATE COMMISSIONER ON 15.10.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P (C).No.32205 of 2015
.....
Dated this the 9th day of November, 2015

J U D G M E N T

The petitioner who had availed of a loan from the respondent bank for purchasing a vehicle bearing registration No.KL-01-BJ-2191, is aggrieved by the steps taken by the respondent bank for recovery of the defaulted loan amounts. It is stated that, the respondent bank has since taken possession of the vehicle mentioned above and steps are afoot to bring the vehicle to sale. It is under these circumstances, the petitioner has approached this Court seeking a permission to clear the outstanding overdue amount in instalments and for a direction to the respondent bank to regularise the loan account.

2. Counsel for the respondent bank would submit that the respondent bank has already filed O.A.No.468 of 2014 before the Debt Recovery Tribunal and obtained attachment of item of immovable property belonging to the petitioner. It is stated, however, that the said item of immovable property was found to have been mortgaged to another bank for a loan availed by the petitioner from that bank. It is stated that since the respondent bank has already filed an O.A before the Debt Recovery Tribunal, the question of regularisation of the loan account does

not arise.

Taking note of the rival submissions, and finding that there is already an O.A pending before the the Debt Recovery Tribunal, filed by the respondent bank, I am of the view that, the petitioner should be relegated to the his remedies before the Debt Recovery Tribunal, for seeking the reliefs which are sought for in the writ petition. Accordingly, without prejudice to the right of the petitioner to approach the the Debt Recovery Tribunal for appropriate reliefs this writ petition is closed.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/9.11.15

