

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937Q

WP(C).No. 32328 of 2015 (M)

PETITIONER:

**A.K.BALAN, S/O.KUTTAPPAN,
AGED 68 YEARS, ARUKANDATHIL HOUSE,
2777C51/2347727, GIRINAGAR,
ERNAKULAM, PIN - 683 581, NOW RESIDING AT
'MARAN VEEDU', ULLALA.P.O., VAIKKOM - 686 607.**

BY ADV. SRI.P.T.JOSE

RESPONDENT:

**CANARA BANK, REPRESENTED
BY AUTHORIZED OFFICER(CHIEF MANAGER),
THALAYOLAPARAMBU BRANCH,
KOTTAYAM DISTRICT, PIN 686 605.**

BY SRI.PAULY MATHEW MURICKEN, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 32328 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1 : TRUE COPY OF THE NOTICE DATED 30.9.2015 ISSUED BY THE
RESPONDENT.

EXT. P2 : TRUE COPY OF THE E-AUCTION SALE NOTICE DATED 30.9.2015 BY
THE RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32328 OF 2015 (M)

Dated this the 26th day of October, 2015

J U D G M E N T

The petitioner, who had availed of 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 E-Auction sale notice issued to the petitioner 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 for the petitioner as also the learned Standing counsel appearing 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 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 availed by the petitioner, is stated to be Rs.14,22,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.14,22,000/- together with accrued interest in two equal and successive monthly installments commencing from 16.11.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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

prp/26/10/15