

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

WP(C) .No. 32581 of 2015 (W)

PETITIONER(S) :

SHINA P.S.,
AGED 40 YEARS, W/O.PREMACHANDRAN,
THIRUVATHIRA, THURAVOOR P.O.,
CHERTHALA, ALAPPUZHA-688 532.

BY ADV. SMT.K.N.RAJANI.

RESPONDENT(S) :

1. SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
II FLOOR, ELIZABETH ALEXANDER MEMORIAL BUILDING,
OPPOSITE RAINBOW BRIDGE, MARINE DRIVE, KOCHI-682 031,
ERNAKULAM BRANCH, REPRESENTED BY ITS BRANCH MANAGER.
2. SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
SUNDARAM TOWERS, 46, WHITES ROAD,
CHENNAI-600 014,
REPRESENTED BY ITS AUTHORISED OFFICER.

R1,R2 BY ADV. SRI.VARGHESE C.KURIAKOSE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1- TRUE COPY OF NOTICE UNDER SECTION 13(2) ISSUED ON BEHALF OF THE RESPONDENT TO THE PETITIONER DATED 1.7.2015.
- EXT. P2- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE RESPONDENT DATED 11.8.2015.
- EXT. P3- TRUE COPY OF THE RECEIPTS ISSUED BY THE RESPONDENT.
- EXT. P4- TRUE COPY OF NOTICE UNDER RULE 8(1) ISSUED ON BEHALF OF THE RESPONDENT TO THE PETITIONER DATED 28.9.2015.
- EXT. P5- TRUE COPY OF PAPER PUBLICATION IN MALAYALA MANORAMA DAILY DATED 3.10.2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 32581 of 2015

Dated this the 23st day of November, 2015

JUDGMENT

The petitioner, 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.P1 is the possession 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 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 her 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.6,62,068/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.6,62,068/- together with accrued interest in ten equal and successive monthly installments commencing from 10.12.2015, and continuous to keep up the regular installments as per the original loan schedule, then the recovery steps initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE