

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. 32861 of 2015 (G)

PETITIONER(S):

**JOY SEBASTIAN, AGED 48 YEARS,
S/O.DEVASSY KURIAKOSE, PLATHOTTATHIL HOUSE,
VATTAKKULAM.P.O., KUDALLOOR, KOTTAYAM 686 587,**

BY ADV. SRI.MARTIN G.THOTTAN

RESPONDENT(S):

**ORIENTAL BANK OF COMMERCE,
CHALUKKATTU BUILDING, PARAKANDAM JN., PALA ROAD,
ETTUMANOOR 686 631,
REPRESENTED BY ITS AUTHORIZED OFFICER.**

BY ADV. SRI.SAJI P.JOSEPH, SC

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

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- TRUE COPY OF THE NOTICE DATED 10.2.2015 ISSUED BY THE RESPONDENT**
- P2- TRUE COPY OF THE CERTIFICATE ISSUED BY MEMBER OF LEGISLATURE ASSEMBLY ADV.MON JOSEPH DATED 28.2.2015**
- P3- TRUE COPY OF THE POSSESSION NOTICE DATED 29.4.2015 ISSUED BY THE RESPONDENT**
- P4- TRUE COPY OF THE MEDICAL CERTIFICATE DATED 3.9.2015 ISSUED TO THE PETITIONER FROM THE GOVT. MEDICAL COLLEGE HOSPITAL, KOTTAYAM.**
- P5- TRUE COPY OF TH DISABILITY CERTIFICATE ISSUED BY THE MEDICAL BOARD TO THE PETITIONER'S WIFE P.B.BETTY.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.32861 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 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.P3 is the possession notice. 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 respondent.

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 instalments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank, as on 30.10.2015 is stated to be Rs.3,46,754/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,46,754/-, together with accrued interest from 30.10.2015, in eight equal and successive monthly instalments commencing from 10.01.2016, then the further proceedings for recovery of loan amounts from the petitioner shall be kept in abeyance.

(ii) It is made clear that if the petitioner commits a default in respect of any of the instalments, 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

mns/9.11.15

