

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

WP(C).No. 33194 of 2015 (Y)

PETITIONER(S) :

**SOBHANA K., AGED 39 YEARS,
W/O.SOMAN K., RAJAMANGALATH, OLAKETTIYAMABALAM,
KOIPALLI KARAZHMA P.O., MAVELIKARA- 690 510.**

**BY ADVS.SRI.RINNY STEPHEN CHAMAPARAMPIL
SMT.ASHA ELIZABETH MATHEW**

RESPONDENT(S) :

- 1. THE SOUTH INDIAN BANK LTD.,
KATTANAM BRANCH, REP. BY ITS MANAGER,
KATTANAM P.O., ALAPPUZHA DISTRICT- 690 503.**
- 2. THE AUTHORISED OFFICER,
THE SOUTH INDIAN BANK LTD., REGIONAL OFFICE,
PATHANAMTHITTA (P.O)- 689 533.**

BY ADV. SRI.K.K.JOHN, S.C

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: A TRUE COPY OF THE DISCHARGE SUMMARY FOR THE PERIOD FROM 24.05.2015 TO 11.06.2014 ISSUED FROM DR.NAIR'S HOSPITAL, KOLLAM.

EXHIBIT P2: A TRUE COPY OF THE DISCHARGE SUMMARY FOR THE PERIOD FROM 18.06.2014 TO 27.06.2014 FROM DR.NAIR'S HOSPITAL, KOLLAM.

EXHIBIT P3: A TRUE COPY OF THE DISCHARGE SUMMARY FOR THE PERIOD FROM 17.10.2014 TO 22.10.2014 ISSUED FROM PVS MEMORIAL HOSPITAL, COCHIN.

EXHIBIT P4: A TRUE COPY OF THE DISCHARGE SUMMARY FOR THE PERIOD FROM 26.01.2015 TO 01.02.2015 ISSUED FROM DR.NAIR'S HOSPITAL, KOLLAM.

EXHIBIT P5: A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 01.11.2014 ISSUED FROM DR.NAIR'S HOSPITAL, KOLLAM.

EXHIBIT P6: A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 30.10.2014 ISSUED FROM PVS MEMORIAL HOSPITAL, ERNAKULAM.

EXHIBIT P7: A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 09.02.2015 ISSUED FROM PVS MEMORIAL HOSPITAL, ERNAKULAM.

EXHIBIT P8: A TRUE COPY OF THE DISCHARGE BILL ISSUED FROM DR.NAIR'S HOSPITAL, KOLLAM.

EXHIBIT P9: A TRUE COPY OF THE NOTICE DATED 16.04.2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P10: A TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.33194 of 2015

.....
Dated this the 30th 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.P10 is the notice issued by the Advocate Commissioner. 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 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 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.1,47,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,47,000/- together with accrued interest in ten equal and successive monthly instalments commencing from 30.11.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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/30.10.15

