

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. 33221 of 2015 (C)

PETITIONER :

**V.H. KABEER,
S/O. V.S HAMSA, AGED 63 YEARS
NO. 7/930(2) "MARHABA" EASWAR GARDEN
KALPATHY, PALAKKAD - 678 003.**

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENT :

**INDIAN BANK,
RERPESENTED BY THE AUTHORISED OFFICER, INDIAN BANK
FIRST FLOOR, MALABAR FORT, KANDATH COMPLEX
OFF. G.B ROAD, PALAKKAD - 678 001.**

BY ADV. SRI.S.EASWARAN

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

Mn

WP(C).No. 33221 of 2015 (C)

APPENDIX

PETITIONERS' EXHIBITS :

**EXHIBIT P1 A TRUE COPY OF THE DEMAND NOTICE DATED OCTOBER 15, 2015
ISSUED BY THE RESPONDENT.**

**EXHIBIT P2 A TRUE COPY OF THE RECEIPT DATED JULY 22, 2015 ISSUED BY THE
BANK.**

RESPONDENT(S)' EXHIBITS : **NIL**

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 33221 of 2015

Dated this the 23st day of November, 2015

JUDGMENT

The petitioner, who had availed 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.P1 is the 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 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 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 outstanding amount, in respect of the loan, is stated to be Rs.38,24,693/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.8,00,000/- within one month from the date of receipt of a copy of this judgment and the balance amount of Rs.30,24,693/- together with accrued interest in ten equal and successive monthly installments commencing from 20.01.2016, then the recovery steps initiated against him 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, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE