

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 33702 of 2015 (K)

PETITIONER(S):

**MANIYAMMAL R. @ MANI SOMANATH,
AGED 53 YEARS, W/O. SOMANATH,
AKLATHU PUTHENPARAMBIL HOUSE,
SREEVALSAM, FATHIMAPURAM P.O.,
CHANGANACHERRY - 686 102.**

**BY ADVS.SRI.K.SASIKUMAR
SRI.S.ARAVIND
SRI.R.ROHITH
SRI.P.S.RAGHUKUMAR**

RESPONDENT(S):

- 1. THE SOUTH INDIAN BANK LTD.,
REGIONAL OFFICE, REGENCY SQUARE,
K.K.ROAD, COLLECTORATE P.O.,
KOTTAYAM - 686 002, REPRESENTED BY
ITS CHIEF MANAGER (AUTHORIZED OFFICER)**
- 2. THE BRANCH MANAGER,
THE SOUTH INDIAN BANK LTD,
S.B COLLEGE JUNCTION,
CHANGANACHERRY - 686 101.**

BY SRI.GEORGE VARGHESE,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 - A TRUE COPY OF THE LETTER DT. 10.4.2013 ISSUED BY THE
2ND RESPONDENT BORROWING THE CREDIT FACILITIES IN THE NAME OF
THE PETITIONER.
- P2 - A TRUE COPY OF THE NOTICE DT. 05.6.2014 ISSUED BY THE
1ST RESPONDENT TO THE PETITIONER.
- P3 - A TRUE COPY OF THE POSSESSION NOTICE DT. 14.11.2014 ISSUED BY THE
1ST RESPONDENT.
- P4 - A TRUE COPY OF THE NOTICE DT. 09.7.2015 ISSUED BY THE ADVOCATE
COMMISSIONER TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.33702 of 2015

Dated this the 6th day of November 2015

JUDGMENT

The petitioner, who had availed two housing loans and an over draft 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 issued to the petitioner under the SARFAESI Act and Ext.P4 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 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 housing loans, is stated to be Rs.4,43,143 + Rs.2,58,004/-, together with accrued interest. Similarly, the total amount outstanding in the over draft facility is stated to be Rs.2,09,316/- together with accrued interest. Accordingly, if the petitioner remits the total amount of Rs.9,10,463/- together with accrued interest, in ten equal and successive monthly installments, commencing from 30.11.2015, and continues to keep up the regular installment payments as per the original loan schedules in the two housing loan accounts, 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

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The amount of **“₹ 4,43,143 + ₹ 2,58,004/-”** occurring in direction No. (i) of the judgment dated 06.11.2015 in W.P.(C) No.33702/2015 is corrected and substituted as **“₹ 6,57,941/- + ₹ 1,29,162/-”** and the figure **“₹ 9,10,463/-”** representing the total amount to be remitted by the petitioner is corrected and substituted by the amount of **“₹ 9,96,419/-”** as per order dated 01.12.2015 in I.A. 17075/2015 in W.P.(C) No.33702/2015(K).

Sd/-
Registrar (Judicial)