

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 33884 of 2015 (I)

PETITIONER :

**ELIAS P.V.,
S/O. VARKEY, PULIKKAYATHPUTHENPURA HOUSE, VALAMBOOR
NORTH MAZHUVANOOR P.O., ERNAKULAM DISTRICT - 686 689.**

**BY ADVS.SRI.VARGHESE K.PAUL
SMT.VINCY MARY VAVACHAN**

RESPONDENT :

**ERNAKULAM DISTRICT CO OPERATIVE BANK LTD.
HEAD OFFICE, KAKKANAD, ERNAKULAM DISTRICT
KOCHI -30
REP. BY ITS AUTHORISED OFFICER/DEPUTY GENERAL MANAGER**

BY ADV. SMT.I.SHEELA DEVI, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 33884 of 2015 (I)

APPENDIX

PETITIONERS' EXHIBITS :

**EXHIBIT P1 A TRUE COPY OF THE DISCHARGE BILL ISSUED BY P.V.S MEMORIAL
HOSPITAL, ERNAKULAM WITH REGARD TO THE TREATMENT
OF SAJI P.V.**

**EXHIBIT P2 A TRUE COPY OF THE SAID NOTICE DATED 11-04-2015 ISSUED BY THE
RESPONDENT IN FAVOUR OF THE PETITIONER.**

**EXHIBIT P3 A TRUE COPY OF THE NOTICE DATED 03-11-2015, ISSUED BY THE
ADVOCATE COMMISSIONER TO THE PETITIONER**

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

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.33884 OF 2015 (I)

Dated this the 17th day of November, 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.P3 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 for the petitioner as also the learned Standing counsel appearing 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 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 availed by the petitioner, is stated to be Rs.4,94,216/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.4,94,216/- 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 schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp/17/11/15