

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 33915 of 2015 (L)

PETITIONER(S):

**ANOOP S.,
S/O.K. SASIDHARAN PILLAI, "KAIRALI",
KANNIMMEL CHERRY, KILIKOLLUR P.O.,
KOLLAM - 691 004.**

**BY ADVS.SRI.C.A.SADASIVAN,
SRI.JOY P.JOSE,
SRI.K.N.KRISHNAN NAMBOOTHIRI,
SRI.C.V.SASI,
SRI.K.JAYAMOHANAN PILLAI,
SRI.JOSEPH KURIEN,
SMT.P.S.SETHULEKSHMY.**

RESPONDENT(S):

**1. CHIEF MANAGER AND AUTHORISED OFFICER,
ANDHRA BANK, S.K.P. BUILDING, BEACH ROAD,
KOLLAM - 691 001.**

**2. M/S. V.S. EXPORTS ENTERPRISES,
"KEERTHANA", KANNIMEL CHERRY,
KILIKOLLOOR P.O, KOLLAM - 691 004,
REPRESENTED BY ITS MANAGING PARTNER.**

BY ADV. SRI.ABRAHAM MATHEW (VETTOOR), SC.

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- TRUE COPY OF THE PURCHASE DEED DATED 28/09/2000.
- P2- TRUE COPY OF THE REQUEST DATED 04/08/2015 FILED BEFORE THE IST RESPONDENT.
- P3- TRUE COPY OF THE LETTER DATED 04/08/2015 OF IST RESPONDENT ISSUED TO THE ZONAL MANAGER.
- P4- TRUE COPY OF THE NOTICE DATED 29/10/2015 OF THE ADVOCATE COMMISSIONER.
- P5- TRUE COPY OF THE I.A. DATED 04/11/2015 FILED ON 06/11/2015 BEFORE THE HONOURABLE DEBT RECOVERY TRIBUNAL, ERNAKULAM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.33915 of 2015

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Dated this the 11th 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.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 for the petitioner and the learned Standing Counsel appearing on behalf of 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 outstanding amount from the petitioner to the respondent bank, in respect of the loan, as of today is stated to be Rs.40,00,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.40,00,000/- together with accrued interest in eight equal and successive monthly instalments commencing from 10.12.2015, 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.

(iii) The respondent bank shall furnish the petitioner with an up-to-date statement of account within a period of one week from today so as to enable the petitioner to make payments in accordance with the directions in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

