

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. 34393 of 2015 (Y)

PETITIONER(S):

**N C SADASHA PRASAD, S/O.NESAN,
RESIDING AT CHRIS COTTAGE, VAZHUTHOOR,
NEYATTINKARA, THIRUVANANTHAPURAM.**

**BY ADVS.SRI.P.R.VENKETESH
SRI.G.KEERTHIVAS**

RESPONDENT(S):

- 1. CANARA BANK,
REPRESENTED BY ITS AUTHORISED OFFICER,
NEYATTINKARA, THIRUVANANTHAPURAM-695121.**
- 2. CANARA BANK,
REPRESENTED BY ITS BRANCH MANAGER,
NEYATTINKARA, THIRUVANANTHAPURAM-695121.**

BY SRI.K.S.DILIP

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

PJ

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: TRUE COPY OF THE POSSESSION NOTICE DATED 26/6/15 ISSUED TO THE PETITIONER FROM THE RESPONDENT

EXHIBIT P2: TRUE COPY OF THE DEMAND LETTER DATED 24/4/15 ISSUED TO THE PETITIONER FROM THE RESPONDENT

EXHIBIT P3: TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER DATED 9/7/15 BEFORE THE R1

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 6/10/15 ISSUED TO THE PETITIONER FROM THE BANK

EXHIBIT P5: TRUE COPY OF THE AUCTION NOTICE PUBLISHED IN THE MATHRUBHUMI DAILY DATED 17/10/15.

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34393 of 2015

Dated this the 17th day of November 2015

JUDGMENT

The petitioner, who had availed 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.P5 is the auction notice issued to the petitioner by the respondent bank. 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, as on today is stated to be Rs.30,93,991/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.30,93,991/- together with accrued interest in nine equal and successive monthly installments, commencing from 21.12.2015, 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

sm/