

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 34620 of 2015 (B)

PETITIONER :

**V.S.SURESH CHANDRAN,
AGED 62, S/O.V. SUKUMARAN, PROPRIETOR,
M/S.ELECTROMECH ENGINEERS, TC 78/344,
PANAYIL BEENA HOUSE, VALLAKADAVU P.O.,
MUTTATHARA VILLAGE, TRIVANDRUM TALUK
TRIVANDRUM DISTRICT, PIN-695 058.**

BY ADV. SRI.VARGHESE C. KURIAKOSE

RESPONDENT(S) :

- 1. UNION OF INDIA
REP. BY SECRETARY
DEPT. OF BANKING AFFAIRS, SECRETARIAT
NEW DELHI-111001**
- 2. M/S.BANK OF INDIA
HAVING A BRANCH BALARAMAPURAM,
BALARAMAPURAM P.O.,
THIRUVANANTHAPURAM-695301
REP. BY IS SENIOR MANAGER.**
- 3. THE CHIEF MANAGER & AUTHORISED OFFICER
BANK OF INDIA, ZONAL OFFICE, KERALA ZONE
KALOOR TOWER, KALOOR-KADAVANTHRA ROAD,
KOCHI- 682017.**
- 4. THE GENERAL MANAGER
BANK OF INDIA, STAR HOUSE, C-5
G - BLOCK, BANDRA, EAST MUMBAI-400 051.**

**R1 BY ADVS. SRI.N.NAGARESH, ASGI
SRI.BABU P.L., CGC
R2 TO R4 BY ADV. SRI.JAWAHAR JOSE, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 34620 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1 : TRUE PHOTOSTAT COPY OF THE NOTICE DT. 30-6-2015 UNDER SECTION 13(2) OF THE SARFAESI ACT.
- EXT. P2 : TRUE PHOTOSTAT COPY OF THE OBJECTION RAISED BY THE PETITIONER.
- EXT. P3 : TRUE PHOTOSTAT COPY OF THE REPLY ISSUED TO THE LAWYER ON 14-9-2015 REJECTING THE CONTENTIONS.
- EXT. P4 : TRUE PHOTOSTAT COPY OF THE REQUEST, OTS FACILITY OF RS.45 LAKHS ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT. P5 : TRUE PHOTOSTAT COPY OF THE POSSESSION NOTICE PERTAINING TO PROPERTY HAVING AN EXTENT OF 30.27 CENTS COMPRISED IN SY.NO27/2 OF ATHIYANNOOR VILLAGE.
- EXT. P6 : TRUE PHOTOSTAT COPY OF THE POSSESSION NOTICE PERTAINING TO PROPERTY HAVING AN EXTENT OF 25.622 CENTS COMPRISED IN SY.NO2416 OF MUTTATHARA VILLAGE.
- EXT. P7 : TRUE PHOTOSTAT COPY OF THE POSSESSION NOTICE PERTAINING TO PROPERTY HAVING AN EXTENT OF 25.70 CENTS COMPRISED IN SY.NO.80 FO ATHIYANNOOR VILLAGE.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34620 of 2015

Dated this the 19th 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. Exts.P5, P6 and P7 are the possession notices issued by the respondent bank 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 cash credit facility as on 30.11.2015 is stated to be Rs.80,91,000/-. Accordingly, if the petitioner remits the aforesaid amount of Rs.80,91,000/- together with accrued interest, in ten equal and successive monthly installments commencing from 10.12.2015, 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

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