

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 34799 of 2015 (Y)

PETITIONER(S):

**SAJITHA, W/O.MUHAMMAD,
MATTULAYIMMEL HOUSE, VALIYA PARAMBU P.O.,
KOZHIKODE DISTRICT-673574.**

**BY ADVS.SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V**

RESPONDENT(S):

- 1. KOZHIKODE DISTRICT CO -OPERATIVE BANK,
REPRESENTED BY THE GENERAL MANAGER,
KOZHIKODE DISTRICT CO-OPERATIVE BANK,
KALLAYI ROAD, P.O.CHALAPPURAM, KOZHIKODE-673002.**
- 2. AUTHORISED OFFICER/SENIOR MANAGER,
KOZHIKODE DISTRICT CO-OPERATIVE BANK,
RECOVERY SECTION, HEAD OFFICE, P.B.NO.503,
KALLAYI ROAD, P.O.CHALAPPURAM, KOZHIKODE, PIN-673002.**

BY ADV. SRI.R.SUDHISH, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 34799 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1- TRUE COPY OF THE NOTICE PUBLISHED IN MATHRUBHOOMI DAILY
DATED 10/9/15.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 34799 of 2015

Dated this the 18th day of November, 2015

JUDGMENT

The petitioner, who stood as guarantor to a commercial loan availed by a partnership firm, is aggrieved by the steps initiated by the respondent against the property belonging to the petitioner, which was offered as security for the loan. Ext.P1 is the possession notice issued to the petitioner under Section 13(4) of 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 loan, to which the petitioner stood guarantor, is stated to be Rs.28,64,593/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.28,64,593/- together with accrued interest in twelve 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