

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 35197 of 2014 (Y)

PETITIONER(S) :

- 1. K.BHADRAN
S/O.K.KESAVAN, AGED 54 YEARS
M/S.MOTHER RUBBER PRODUCTS
VADEKKAKARA VEEDU, IDAKKIDOM P.O.,
EZHUKONE, KOLLAM-691505.**
- 2. SHEEJA, AGED 42,
W/O.K.BHADRAN, D/O.PUSHKARAN, VADEKKAKARA VEEDU
IDAKKIDOM P.O., EZHUKONE, KOLLAM-691505.**

BY ADV. SMT.I.S.LAILA

RESPONDENT(S) :

- 1. UNION BANK OF INDIA
REPRESENTED BY ITS BRANCH MANAGER, KOTTIYAM BRANCH
NEELA BUILDING, P.B.NO.1, KOTTIYAM-691571.**
- 2. UNION BANK OF INDIA
REPRESENTED BY ITS CHIEF MANAGER & AUTHORISED OFFICER
UNION BANK BHAVAN, M.G.ROAD, STATUTE
THIRUVANANTHAPURAM-695001.**
- 3. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO THE GOVERNMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-685 001.**

**R1 & R2 BY ADV. SRI. A.S.P. KURUP, SC
R3 BY SR. GOVT. PLEADER SMT. SHOBA ANNAMMA EAPEN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

APPENDIX

PETITIONERS' EXHIBITS :

**EXT.P1 : TRUE COPY OF THE RELEVANT PAGES OF THE CONCERNED
STATEMENT OF ACCOUNTS ISSUED FROM 1-4-13 TO 24-11-14 BY THE
1ST RESPONDENT BANK.**

EXT.P2 : TRUE COPY OF THE TAX RECEIPT OF THE PROPERTY.

EXT.P3 : TRUE COPY OF THE TAX RECEIPT OF THE PROPERTY.

**EXT.P4 : TRUE COPY OF THE DEMAND NOTICE DT.12-7-14 ISSUED BY THE 1ST
RESPONDENT.**

**EXT.P5 : TRUE COPY OF THE LETTER AND FINANCIAL STATEMENTS FOR THE
YEAR 2013-14 SUBMITTED TO THE 1ST RESPONDENT.**

EXT.P6 : TRUE COPY OF THE DEMAND NOTICE DT.5-12-14.

EXT.P7 : TRUE COPY OF THE RECEIPT DT.4-11-14.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35197 OF 2014

Dated this the 8th day of January, 2015

J U D G M E N T

The 1st petitioner, who had availed of three loans 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 to the 1st petitioner under Section 13(2) of the SARFAESI Act. Ext.P6 is the notice issued by the Advocate Commissioner. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.Laila Sunil, the learned counsel appearing on behalf of the petitioners as also Sri.A.S.P.Kurup, 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 petitioners is to permit them to remit the balance amounts outstanding to the bank in easy instalments. Taking into

account the plea of financial hardship raised by the petitioners, I dispose the writ petition with the following directions:-

(i) The total overdue amount due to the respondent bank is stated to be Rs.2 lakhs with accrued interest. Accordingly, if the 1st petitioner effects payment of Rs.2 lakhs in three equal and successive monthly instalments commencing from 30.01.2015, and continues to effect the periodic payments as contemplated in the original loan schedule, the recovery steps initiated by the respondents shall be kept in abeyance and the 1st petitioner shall be permitted to operate the loan account.

(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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

