

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF NOVEMBER 2015/29TH KARTHIKA, 1937

WP(C).No. 35125 of 2015 (M)

PETITIONER :

**T.C.VARGHESE
S/O.CHERIYAN, AGED 76, RESIDING AT FLAT 8C
CORDIAL EMERALD BUILDING, KESAVADASAPURAM
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.M.RAMASWAMY PILLAI
SMT.PREETHY R. NAIR**

RESPONDENT(S) :

- 1. M/S.INDIA BULLS HOUSING FINANCE LTD.,
M-62 & 63, FIRST FLOOR, CONNAUGHT PLACE
NEW DELHI, CORPORATE OFFICE, INDIA BULLS HOUSE
448-451, UDYOG VIHAR, PHASE-V
GURGAON-122016.**
- 2. THE AUTHORISED OFFICER
M/S.INDIA BULLS HOUSING FINANCE LTD., M-62 & 63
FIRST FLOOR, CONNAUGHT PLACE, NEW DELHI-110 001.**

R1 & R2 BY ADV. SRI.MADHU RADHAKRISHNAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF NOTICE DATED 31-3-2015 UNDER SEC. 13(2) OF
SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND
ENFORCEMENT OF SECURITY INTEREST ACT (SARFAESI ACT).**
- EXT.P2 THE PHOTOCOPY OF THE NOTICE UNDER SEC. 13(4) OF THE
SARFAESI ACT ISSUED BY THE 2ND RESPONDENT ON 20-7-2015.**
- EXT.P3 COPY OF LETTER SENT BY THE PETITIONER ON 19-4-2015.**
- EXT.P4 THE PHOTOCOPY OF THE INSERTION DATED 19/9/2015.**
- EXT.P5 COPY OF NOTICE TO THE SUB INSPECTOR OF POLICE,
THAMPANOOR POLICE STATION, TRIVANDRUM ON 7-10-2015.**

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.35125 of 2015

.....
Dated this the 20th day of November, 2015

J U D G M E N T

The petitioner who had availed of two loans from the respondent company, defaulted in repayment of the same. Consequently, the respondent company 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.P2 is the 13 (4) notice issued by the respondent company. In the writ petition, the petitioner impugns the steps initiated by the respondent company 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 company.

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 company 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 amount outstanding from the petitioner to the respondent company, in respect of the two loans, is approximately Rs.2,99,07,053/- as on 31.03.2015. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,99,07,053/- (approx) together with accrued interest in 8 equal and successive monthly instalments commencing from 10.12.2015, then further proceedings for recovery recovery shall be kept in abeyance.

(iii) 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 company will be free to continue the recovery proceedings against him from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

