

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

WP(C).No. 35416 of 2015 (B)

PETITIONER(S) :

**VINOD.S., AGED 34 YEARS,
SON OF SURENDRAN PILLAI, SANKARAMANGALAM, PARAKULAM,
NEDUMGOLAM P.O, KOLLAM-691 334.**

**BY ADVS.SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SRI.P.N.RAJAGOPALAN NAIR
SRI.P.S.GIREESH
SRI.RIYAL DEVASSY**

RESPONDENT(S) :

- 1. THE CHIEF JUDICIAL MAGISTRATE,
CIVIL STATION, KOLLAM-691 013.**
- 2. MUNNER S., ADVOCATE COMMISSIONER, KSPM BUILDING,
NEAR DISTRICT JAIL, KOLLAM-691 013.**
- 3. THE AUTHORISED OFFICER,
SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
SUNDARAM TOWERS, 46 WHITES ROAD, CHENNAI-600 014.**
- 4. SUNDARAN BNP PARIBAS HOME FINANCE LTD.,
REPRESENTED BY ITS MANAGER, PMP COMPLEX, FIRST FLOOR,
ABOVE SBI NRI BRANCH, TRIVANDRUM ROAD, POLAYATHODE,
KOLLAM-691 001.**

**R1 BY GOVERNMENT PLEADER SMT.LILLY.K.T
R3 & R4 BY SRI.S.EASWARAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF NOTICE DATED 01.05.2014 UNDER SECTION 13(2) OF SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 ISSUED BY 3RD RESPONDENT TO THE PETITIONER.

EXHIBIT P2: TRUE COPY OF POSSESSION NOTICE DATED 29.08.2014 ISSUED BY 4TH RESPONDENT.

EXHIBIT P3: TRUE COPY OF STATEMENT OF ACCOUNTS FOR THE PERIOD 01.04.2014 TO 20.03.2015 IN RESPECT OF LOAN ACCOUNT NO.72400088 DATED 20.03.2015 ISSUED BY 4TH RESPONDENT TO PETITIONER.

EXHIBIT P4: TRUE COPY OF NOTICE DATED 05.11.2015 ISSUED BY 2ND RESPONDENT TO PETITIONER.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35416 of 2015

Dated this the 23st day of November, 2015

JUDGMENT

The petitioner, who had availed a loan 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.P4 is the notice issued to the petitioner by the Advocate Commissioner under the SARFAESI Act. 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 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 Company 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 overdue amount, in respect of the loan, is stated to be Rs.1,51,373/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,51,373/- together with accrued interest in three equal and successive monthly installments commencing from 10.12.2015, and continues to keep up the regular installments as per the original loan schedule, then the recovery steps initiated against him by the respondent Company 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 Company will be free to continue the recovery proceedings against him from the stage at which they presently stand.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE