

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WP(C).No. 35643 of 2015 (E)

PETITIONER(S):

**BASHEER K.K, AGED 45 YEARS,
S/O.MOOSAKUTTY, KALAMBAN KOTTARATH HOUSE,
EDAYUR POST,
VALANCHERRY, MALAPPURAM DISTRICT-676554.**

**BY ADVS.SRI.K.M.JAMALUDHEEN
SMT.LATHA PRABHAKARAN
SRI.K.ABDUL HAKEEM
SRI.JOBY VARGHESE**

RESPONDENT(S):

- 1. THE AUTHORIZED OFFICER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED,
HEAD OFFICE, MALAPPURAM-676505.**
- 2. MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED,
BRANCH OFFICE, VALANCHERRY,
MALAPPURAM-676552,
REPRESENTED BY ITS BRANCH MANAGER.**

BY SRI.E.S.M.KABEER,SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 35643 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P-1: TRUE COPY OF NOTICE UNDER SECTION 13(2) SECURITIZATION AND
RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF
SECURITY INTEREST ACT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35643 of 2015

Dated this the 25th day of November, 2015

JUDGMENT

The petitioner, who had availed a loan 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.P1 is the notice issued to the petitioner under Section 13 (2) 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 overdue amount, in respect of the loan, is stated to be Rs.8,82,276/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.8,82,276/- together with accrued interest in eight equal and successive monthly installments commencing from 15.12.2015, and continuous to keep up the regular installments as per the original loan schedule, 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