

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. 35682 of 2015 (I)

PETITIONER:

**MUHAMMED ALI.K, S/O.MUHAMMED,
AGED 55 YEARS, KULAMULLY HOUSE,
KANAYAM POST, SHORNUR,
PALAKKAD DISTRICT - 679 122.**

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

RESPONDENT(S):

- 1.THE AUTHORIZED OFFICER,
M/S.SUNDARAM BNP PARIBAS
HOME FINANCE LIMITED,
(FORMERLY KNOWN AS SUNDARAM
HOME FINANCE LIMITED), SUNDARAM HOUSE,
46, WHITES ROAD, CHENNAI - 600 014.**
- 2. M/S.SUNDARAM BNP PARIBAS
HOME FINANCE LIMITED,
(FORMERLY KNOWN AS SUNDARAM
HOME FINANCE LIMITED), BRANCH OFFICE,
MANJERI, MALAPPURAM - 676 121,
REPRESENTED BY ITS BRANCH MANAGER.**

BY SRI.VARGHESE C.KURIAKOSE

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

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.
- EXT. P2 : TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.
- EXT. P3 : TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.
- EXT. P4 : TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.
- EXT. P5 : TRUE COPY OF THE CMP.NO.4497/2015 PENDING BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD.

RESPONDENTS' EXHIBIT: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.35682 OF 2015 (I)

Dated this the 25th day of November, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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.P5 is the petition filed by the respondent company before the Chief Judicial Magistrate Court, Palakkad, under Section 14 of 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 for the petitioner as also the learned Standing counsel appearing for the respondent company.

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 respondent 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 availed by the petitioner, as on today, is stated to be Rs.13,82,705/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.13,82,705/- together with accrued interest in twelve equal and successive monthly installments commencing from 15.12.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent company shall be kept in abeyance.

(ii) It is further 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE