

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 35793 of 2015 (Y)

PETITIONER:

**DR.JOHN PAUL,
KOLLATH HOUSE,
KELAKAM, KANNUR.**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

RESPONDENT(S):

- 1. HOUSING DEVELOPMENT FINANCE
CORPORATION LTD(HDFC), HDFC HOUSE,
PB.NO.1667, RAVIPURAM JUNCTION,
MG ROAD, KOCHI - 682015.**
- 2. THE AUTHORISED OFFICER,
HOUSING DEVELOPMENT FINANCE
CORPORATION LTD(HDFC), HDFC HOUSE,
PB.NO.1667, RAVIPURAM JUNCTION, MG ROAD,
KOCHI - 682015.**

**BY SRI.K.K.CHANDRAN PILLAI (SENIOR ADVOCATE)
BY ADV. SMT.S.AMBILY, SC
ADVS. SMT.K.V.SHENU
SRI.ARUN ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 35793 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

**P1: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENTS
DATED 20.08.2015.**

**P2: TRUE COPY OF THE DEMAND NOTICE PUBLISHED BY THE RESPONDENTS
DATED 29.09.2015.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35793 of 2015

Dated this the 3rd day of December 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 as on 26.11.2015, is stated to be Rs.3,83,704/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.3,83,704/- together with accrued interest in ten equal and successive monthly installments commencing from 21.12.2015, and continues to keep up the regular installment payments 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

sm/