

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 35845 of 2015 (E)

PETITIONER(S) :

- 1. BINDU SANTHOSH, AGED 40 YEARS,
W/O.SANTHOSH, BINDU BHAVAN, NEDUNGOLAM P.O.,
MEENADU, CHATHANOR, KOLLAM.**
- 2. SANTHOSH, AGED 48 YEARS,
S/O.SIVAN PILLAI, BINDU BHAVAN, NEDUNGOLAM P.O.,
MEENADU, CHATHANOR, KOLLAM.**

BY ADVS.SRI.LIJU. M.P

RESPONDENT(S) :

- 1. THE AUTHORIZED OFFICER,
AREA OFFICE, 2ND FLOOR, ELIZABETH MEMORIAL,
BUILDING, MARIAN DRIVE, OPPOSITE RAINBOW BRIDGE,
ERNAKULAM.**
- 2. THE BRANCH MANAGER,
SUNDRAM BNP PARIBAS HOME FINANCE LTD.,
POLAYATHODE BRANCH, PMP COMPLEX, FIRST FLOOR,
POLAYATHODE, KOLLAM.**
- 3. THE SUNDRAM BNP PARIBAS HOME FINANCE LTD.,
NO.21, PATULLOS ROAD, CHENNAI- 600 002,
(SUNDARAM BNP PARIBAS HOME FINANCE LTD.,
1ST FLOOR, SUNDARAM TOWERES, NO.46, WHITE ROAD,
CHENNAI- 600 014,) REP.BY THE MANAGING DIRECTOR.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 35845 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE POSSESSION NOTICE DATED 11.11.2015.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 35845 of 2015

Dated this the 26th day of November, 2015

JUDGMENT

The petitioners, 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 possession notice issued to the petitioners under the SARFAESI Act. In the writ petition, the petitioners impugn 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 petitioners 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 petitioners is to permit them 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.3,88,500/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.3,88,500/- together with accrued interest in six equal and successive monthly installments commencing from 15.12.2015, and continues to keep up the regular installments as per the original loan schedule, then the recovery steps initiated against them by the respondent bank shall be kept in abeyance.
- (ii) It is made clear that if the petitioners commit a default in respect of any of the installments, they will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE