

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 35924 of 2015 (M)

PETITIONER(S):

**RAJASEKHARAN NADAR,
S/O.GOPALAKRISHNAN NADAR, NINU NIVAS,
OROOTU JN., PUNNAKAMUGHAL, ARAMADA P.O.,
THIRUVANANTHAPURAM - 695 032.**

**BY ADVS.SRI.H.HAMZA ROWTHER,
SRI.VINOD KUMAR.C,
SRI.H.SUNIL.**

RESPONDENT(S):

- 1. UNITED BANK OF INDIA,
REPRESENTED BY ITS BRANCH MANAGER,
TRIVANDRUM BRANCH, KESAVA TOWERS,
GANDHARI AMMEN KOIVIL STREET,
THIRUVANANTHAPURAM -695 001.**
- 2. THE AUTHORIZED OFFICER,
UNITED BANK OF INDIA, KESAVA TOWERS,
GANDHARI AMMEN KOIVIL STREET,
THIRUVANANTHAPURAM - 695 001.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 35924 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:-

**P1 - TRUE COPY OF NOTICE UNDER RULE 8(1) OF SARFAESI ACT
DATED 09.09.2015.**

P2 - TRUE COPY OF E AUCTION SALE NOTICE DATED 03.11.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.35924 of 2015

Dated this the 7th 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.P2 is the Auction sale notice issued to the petitioner under 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.3,21,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.3,21,000/- together with accrued interest and other charges, in five 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/