

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. 36637 of 2015 (D)

PETITIONER :

**MUHAMMED A.,
S/O. AYMMU, RESIDING AT AATTKURISSI HOUSE
KODALUR, PATAMBI, PALAKKAD DISTRICT – 679 303.**

**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 ADV. SRI.VARGHESE C. KURIAKOSE, SC

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

Mn

...2/-

WP(C).No. 36637 of 2015 (D).

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : COPY OF THE RECEIPT ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

EXT.P2 COPY OF THE RECEIPT ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

EXT.P3 COPY OF THE RECEIPT ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

EXT.P4 COPY OF THE RECEIPT ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

EXT.P5 COPY OF THE NOTICE UNDER RULE 8(1) OF THE SECURITY INTEREST ENFORCEMENT RULES IN RESPECT OF LOAN NO. 72700367.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.36637 OF 2015 (D)

Dated this the 3rd day of December, 2015

J U D G M E N T

The petitioner, who had availed of a 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 possession notice issued by the respondent company. 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.

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 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, is stated to be Rs.14,83,036/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.14,83,036/- together with accrued interest in twelve 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 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