

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937

WP(C).No. 37257 of 2015 (F)

PETITIONER(S):

**SAFA SHINE RAJ, AGED 26 YEARS,
W/O.MUHAMMED SHINE RAJ,
VELIYIL HOUSE, KUTHIATHODE P.O.,
CHERTHALA, ALAPPUZHA.**

BY ADV. SRI.C.R.SANISH

RESPONDENT(S):

**THE SYNDICATE BANK, M.G.ROAD,
ERNAKULAM - 682 035,
REPRESENTED BY ITS AUTHORIZED OFFICER
CUM CHIEF MANAGER.**

BY ADV. SRI.R.S. KALKURA, SC

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: THE TRUE COPY OF THE HOUSING LOAN SANCTION LETTER ISSUED BY THE RESPONDENT TO THE PETITIONERS DTD.20.2.2006 BEARING NUMBER OSL/HL-2236.

EXT.P2: THE TRUE COPY OF THE NOTICE DTD.9.9.2015 ISSUED BY THE RESPONDENT TO THE PETITIONERS U/S13(4) OF THE SECURITIZATION AND PETITIONERS U/S13(4) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 R/W RULE 8 OF SECURITY INTEREST (ENFORCEMENT) RULES 2002.

EXT.P3: THE TRUE COPY OF THE REPRESENTATION DTD.16.9.2015 SUBMITTED BY THE PETITIONERS BEFORE THE RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 37257 of 2015

Dated this the 9th day of December, 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.P2 is the notice issued to the petitioners under Section 13(4) of 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 outstanding amount, in respect of the loan, is stated to be Rs.6,62,755/- together with accrued interest. Accordingly, if the petitioners remit the aforesaid amount of Rs.6,62,755/- together with accrued interest in twelve equal and successive monthly installments commencing from 28.12.2015, 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