

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 38083 of 2015 (I)

PETITIONER(S):

- 1. BINEESH P.B., S/O.BALAN,
AGED 35 YEARS, BUSINESS, PATHIYARIL,
MADATHUMPADY P.O, ERATTAPPADY,
MALA -680 733.**
- 2. MAHESH P.B., S/O.BALAN,
AGED 35 YEARS, BUSINESS, PATHIYARIL,
MADATHUMPADY P.O, ERATTAPPADY,
MALA- 680 733.**

**BY ADVS.SRI.V.A.MUHAMMED,
SRI.K.A.MANZOOR ALI.**

RESPONDENT(S):

- 1. THE AUTHORISED OFFICER,
THE THRISSUR DISTRICT CO-OPERATIVE BANK,
SAHAKARANA SABABDI MANDIRAM, TUDA ROAD,
KOVILAKATHUMPADY, THIRUVAMBADY P.O,
THRISSUR- 680 022.**
- 2. THE BRANCH MANAGER,
THE THRISSUR DISTRICT CO-OPERATIVE BANK,
SAHAKARANA SABABDI MANDIRAM, TUDA ROAD,
KOVILAKATHUMPADY THIRUVAMBADY P.O,
THRISSUR 680 022.**

BY ADV. SRI.C.A.MAJEED, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 38083 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1. COPY OF THE NOTICE DATED 18.11.2015 ISSUED BY THE
1ST RESPONDENT.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.38083 of 2015

Dated this the 16th day of December 2015

JUDGMENT

The petitioners, who had availed two loans 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 petitioner under the SARFAESI Act. In the writ petition, the petitioners impugn the steps initiated by the respondent bank for recovery of the loans' 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 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 petitioners, I dispose the writ petition with the following directions:-

- (i) The total overdue amount, in respect of the loans, are stated to be Rs.2,61,757/- and Rs.3,53,044/- respectively. Accordingly, if the petitioners remit the total amount of Rs.6,14,801/-, together with accrued interest, in twelve equal and successive monthly installments commencing from 05.01.2016 and continues to keep up the regular installment payments as per the original loan schedule in both the loan accounts, 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

sm/