

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 39244 of 2015 (E)

PETITIONER(S):

**SATHYAN, S/O. MADHAVAN,
AGED 65 YEARS, VALLATHU HOUSE,
NEAR KARITHALATHODU BRIDGE, CHERAYI,
PALLIPPURAM VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.L.DEVADAS,
SRI.VENKATESH GOPI.**

RESPONDENT(S):

- 1. STATE BANK OF INDIA,
CHERAI BRANCH, CHERAI P.O. - 683 514,
ERNAKULAM DISTRICT, REPRESENTED BY
THE MANGER AND AUTHORIZED OFFICER.**
- 2. STATE BANK OF INDIA,
A BODY CO-OPERATE CONSTITUTE UNDER THE
STATE BANK OF INDIA ACT 1955, HAVING ITS
CO-OPERATES CENTER AT MADAM CAMA ROAD,
NARIMAN POINT, MUMBAI - 400 021 AND ONE OF ITS
LOCAL HEAD OFFICE AT S.S. KOVIL ROAD,
THAMPANUR, THIRUVANANTHAPURAM AND
BRANCHES AND OFFICES THROUGH OF INDIA
INCLUDING BRANCHES AT ANGAMALI AND
RAMCCCC AT ALUVA, REPRESENTED BY ITS
GENERAL MANAGER.**

BY ADV. SRI.S.EASWARAN, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

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APPENDIX

PETITIONER'S EXHIBITS:-

- P1 - THE PHOTOCOPY OF REGD. SALE DEED NO. 4286/04 OF KUZHIPPIILLY SRO DATED 01.12.2004.
- P2 - PHOTOCOPY OF THE SECTION 13(2) NOTICE ISSUED BY THE BANK DATED 01.07.2015.
- P3 - PHOTOCOPY OF THE POSSESSION NOTICE DATED 16.10.2015.
- P4 - PHOTOCOPY OF THE CAVEAT NOTICE DATED 02.12.2015.
- P5 - PHOTOCOPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER OF SURRENDERING POSSESSION DATED 03.12.2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.
.....
W.P.(C).No.39244 of 2015
.....
Dated this the 22nd day of December, 2015

J U D G M E N T

The petitioner, who had availed of a cash credit facility and a housing 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.P3 is the possession notice. Ext.P5 is the notice issued by the Advocate Commissioner. 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 amount outstanding from the petitioner to the respondent bank under the cash credit facility is stated to be Rs.10,90,653/-. As regards the housing loan, it is stated by counsel for the respondent bank that the said loan has not been defaulted till date. Accordingly, if the petitioner remits the aforesaid amount of Rs.10,90,653/- together with accrued interest in two equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installments as per the original loan schedule in the housing loan account, 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.
- (iii) The respondent bank shall, within a period of two weeks from today, provide the petitioner with an up-to-date statement of accounts so as to enable the petitioner to

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discharge the liability in accordance with the directions of this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/22.12.15

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