

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

WP(C).No. 39764 of 2015 (U)

PETITIONER :

**VISWANATHAN.L.,
S/O.LEKSHMANAN NADAR, AGED 51 YEARS,
RESIDING IN LEKSHMANAN BHAVAN,
CHERAPALLY PARANDODE.P.O., ARYANAD-695 541.**

BY ADV. SRI.B.N.SHIVSANKAR

RESPONDENT(S):

- 1. THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
HEAD OFFICE, DISTRICT CO-OPERATIVE BANK BUILDING,
PADMANABASWAMY TEMPLE ROAD,
EAST FORT-695 023, REPRESENTED BY ITS AUTHORIZED OFFICER.**
- 2. THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
ARYANAD BRANCH-695 542,
REPRESENTED BY ITS BRANCH MANAGER.**

BY SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM DIST.CO.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.39764/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE NOTICE DATED 20/11/2015.**
- P2 COPY OF THE NOTICE ISSUED AT THE TIME OF TAKING POSSESSION OF THE PROPERTY, DATED 17/7/2014.**
- P3 COPY OF THE BANK RECEIPT DATED 23/7/2014**
- P4 COPY OF THE BANK RECEIPT DATED 31/8/2015.**
- P5 COPY OF THE MATHRUBHOOMI NEWSPAPER DATED 20/11/2015.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 39764 of 2015

Dated this the 23rd 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.P5 is the 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.4,48,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.4,48,000/- together with accrued interest in ten equal and successive monthly installments commencing from 05.01.2016, and continues to keep up the regular installments 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.
- (iii) The respondent bank shall, within ten days from today, provide the petitioner with an upto-date statement of accounts so as to enable the petitioner to discharge the liability in accordance with the directions of this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE