

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 31ST DAY OF OCTOBER 2013/9TH KARTHIKA, 1935

WP(C).No. 25366 of 2013 (U)

PETITIONER :

**RAJANI SAJAN,
W/O. SAJAN, AGED 53 YEARS,
RESIDING AT ELAYADATH HOUSE, KOTHERI ROAD
VADUTHALA, KOCHI-682023, NOW RESIDING AT KOMBARA HOUSE
CHEMMANATHUKARA POST, VAIKOM, KOTTAYAM DIST.**

**BY ADVS.SRI.T.C.SURESH MENON
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.SANIL JOSE**

RESPONDENT(S):

- 1. CANARA BANK
AYYAPPANKAVU BRANCH, ERNAKULAM-682018
REPRESENTED BY ITS MANAGER.**
- 2. THE AUTHORISED OFFICER,
CANARA BANK, AYYAPPANKAVU BRANCH, ERNAKULAM-682018.**

**R1 & R2 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-10-2013, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 25366 of 2013 (U)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1. TRUE COPY OF THE PAY-IN SLIP SHOWING THE REMITTANCE TO THE
 LOAN ACCOUNT DATED 15-3-2013.

EXT. P2. TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT
 DATED 13-8-2013.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R.RAMACHANDRA MENON, J.

W.P.(c) No.25366 OF 2013

Dated this the 31st day of October, 2013

JUDGMENT

The petitioner, along with her husband, had availed a housing loan of Rs. 4 lakhs from the first respondent, creating security interest over the property in question. But by virtue of the loss of employment in the gulf country, petitioner's husband had to return and they are finding it very difficult to make both ends meet. By virtue of the turn of events, there occurred default as well with regard to satisfaction of due amount to the Bank, which made the respondent Bank to declare the account as 'NPA' and the Bank proceeded with steps under the SARFEASI Act. This in turn is under challenge in this writ petition.

2. The learned counsel for the petitioner submits that the default was never wilful, but because of some frustrating pecuniary circumstances and hence the prayer is to show some indulgence so as to wipe off the liability in a phased manner.

3. The learned standing counsel for the respondent Bank

submits on instructions that the account was declared as 'NPA' as early as on 13.12.2009; pursuant to which some amount was satisfied by the petitioner. But it was not continued to be effected so as to clear the liability with regard to arrears. This made further demand notice to be issued and symbolic possession of the property was taken in January 2011 itself. It is also stated that the default continues and hence the subsequent proceedings by way of Ext.P2.

4. The learned counsel for the petitioner submits that the petitioner does not intend to challenge the liability to clear the dues or to avail the statutory remedy and that the petitioner is ready to satisfy the entire liability in respect of the loan, if some breathing time is given, by way of instalments.

5. In the above circumstances, considering the total outstanding liability, which is about 4.76 lakhs as on 24.07.2013, the petitioner is permitted to clear the entire liability by way of 'eight' equal monthly instalments. The first instalment shall be effected on or before the last working day of November 2013, to be followed by similar instalments to be effected on or before the last working day of

the succeeding months. Subject to this, the recovery proceedings shall be kept in abeyance for the time being. If the petitioner commits any default in remitting the amounts as above, the respondent Bank will be at liberty to proceed with further steps for realisation of the entire outstanding liability in a lump, pursuing appropriate steps, from the stage where it stands now.

Writ petition is disposed of as above.

P.R.RAMACHANDRA MENON
JUDGE

SV.

