

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF JUNE 2017/9TH ASHADHA, 1939

WP(C).No. 21203 of 2017 (A)

PETITIONER:

**THOMAS LONAPPAN
VADAKKUMKARA HOUSE,
KINFRA PO., PIN-680309,
MURINGOOR, THRISSUR PIN-680309**

BY ADV. SRI.P.IDAVIS

RESPONDENT:

**BANK OF INDIA
ERNAKULAM MID CORPORATE BRANCH,
MANAVALAN BUILDING, SUBHASH CHANDRA BOSE ROAD,
PONNURUNNI, VYTILA PO., KOCHI -682019
REP. BY ITS CHIEF MANAGER, KERALA ZONE.**

BY ADV. SRI.J.HARIKUMAR, SC.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-06-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sdr/-

WP(C).No. 21203 of 2017 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE SANCTION LETTER DATED 6.9.2016

**EXHIBIT P2: TRUE COPY OF THE NOTICE U/S 13(2 OF THE SARFAESI ACT
DATED 3.4.42017**

**EXHIBIT P3: TRUE COPY OF THE STATEMENT OF ACCOUNT ISSUED BY
THE RESPONDENT BANK FOR THE PERIOD FROM 6.9.2016
TO 14.6.2016**

**EXHIBIT P4: TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE
RESPONDENT BANK DATED 14.6.2017**

EXHIBIT P5: TRUE COPY OF THE POSSESSION NOTICE PUBLISHED ON 20.6.2017

RESPONDENT(S)' EXHIBITS NIL

/TRUE COPY/

PA TO JUDGE

sdr/-

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.21203 of 2017

Dated this the 30th day of June, 2017

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 possession 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 availed by the petitioner, as on today, is stated to be Rs.4,85,507/- . Accordingly, if the petitioner remits the aforesaid amount of Rs.4,85,507/-(less any amount subsequently paid by the petitioner and not given credit to) together with accrued interest in eight equal and successive monthly installments commencing from 10.07.2017, and continues to keep up the regular installment payments 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 furnish the petitioner with an up-to-date statement, of the dues position together with interest, within 10 days from today, so as to enable the petitioner to discharge his liability in accordance with the directions in this judgment.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/