

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 28TH DAY OF SEPTEMBER 2017/6TH ASWINA, 1939

WP(C).No. 31259 of 2017 (F)

PETITIONER :

DIVAKARAN V.V.,
AGED 59 YEARS, S/O. KESAVAN,
KOYANTAVALLAPPIL (H), CHERIYAMANGAD,
KOYILANDI (PO), CALICUT, PIN-673305.

BY ADVS.SMT.V.S.SHILPA KALA
SRI.P.K.SIRAJ MEHABOOB

RESPONDENT :

STATE BANK OF TRAVANCORE,
REP. BY ITS MANAGER/POWER OF ATTORNEY HOLDER,
KOYILANDI BRANCH, KOYILANDI P.O.,
CALICUT-673305.

BY SMT.BINDUMOL JOSEPH
BY SRI.B.S.SYAMANTHAK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 28-09-2017, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

bp

WP(C) .No. 31259 of 2017 (F)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE NOTICE GIVEN BY ADVOCATE
 COMMISSIONER DATED 24.09.2017.

RESPONDENT(S) ' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.31259 of 2017

Dated this the 28th day of September, 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.P1 is the notice issued to the petitioner 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 overdue amount, in respect of the loan availed by the petitioner is stated to be Rs.3,11,062/- . Accordingly, if the petitioner remits the aforesaid amount of Rs.3,11,062/- together with accrued interest and other charges in 12 equal and successive monthly installments commencing from 09.10.2017, 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/