IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

OP (DRT).No. 20 of 2015 (O)

SA 40/2013 of DEBTS RECOVERY TRIBUNAL, ERNAKULAM

PETITIONER :

SUBIN P. S., AGED 35 YEARS,
S/O.SUDHAKARAN P.R., PANIKKASSERI HOUSE,
THALIKKULAM P.O., THRISSUR DISTRICT

BY ADVS.SRI.N.SASI
SMT.T.M.BINITHA

RESPONDENTS :

THE AUTHORIZED OFFICER, STATE BANK OF INDIA,
IRINJALAKUDA, THRISSUR - 680 121.

BY SRI.S.EASWARAN

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

OP (DRT).No. 20 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: **TRUE COPY OF THE DEMAND NOTICE DATED 2.7.12 ISSUED BY THE RESPONDENT TO THE PETITIONERS.**

P2: **TRUE COPY OF THE POSSESSION NOTICE DATED 1.1.2013 ISSUED BY THE RESPONDENT TO THE PETITIONERS.**

P3: **TRUE COPY OF THE S.A.NO.40/203 FILED BEFORE THE DRT, ERNAKULAM (WITHOUT ANNEXURES)**

P4: **TRUE COPY OF THE IA NO.170/2013 IN SA NO.40/2013 FILED BEFORE THE DRT, ERNAKULAM.**

P5: **TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 21.6.13.**

P6: **TRUE COPY OF THE ORDER IA.2203/14 IN SA.NO.40/2013 DATED 14.1.2014**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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O.P.(DRT) No.20 of 2015 (O)

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Dated this the 20th day of February, 2015

JUDGMENT

The petitioner, who had availed of two loans from the respondent Bank, defaulted in re-payment 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', against the petitioner. Ext.P2 is the possession notice issued under Section 13(4) of the SARFAESI Act to the petitioner in that regard. Ext.P5 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Thrissur to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. I have heard Sri.Sasi N., learned counsel for the petitioner and Sri.S. Eswaran, learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the

sole prayer of the petitioner is to permit him to remit the overdue amount 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 both the loans from the petitioner to the respondent Bank is stated to be an amount of Rs.1,72,530/- together with accrued interest. Accordingly, if the petitioner remits the amount of Rs.1,72,530/- together with accrued interest in two equal and successive monthly installments commencing from 05.03.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/20/02/