IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

OP (DRT).No. 38 of 2015 (O)

S.A.NO.352/2014 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM

PETITIONER(S) :

K.P.GOPALAKRISHNAN, AGED 59 YEARS,
MANAGING PARTNER, M/S. SOLUTION, 49/735,
"SOUBHAGYA", PUNNEKKAL, ELAMAKKARA,
KOCHI - 682 026.

BY ADV. SMT.E.V.MOLY

RESPONDENT(S) :

CORPORATION BANK,
ELAMAKKARA BRANCH, RAGHAVAN PILLAI MEMORIAL BUILDING,
ELAMAKKARA - 682 026,
REPRESENTED BY ITS AUTHORIZED OFFICER.

BY ADV. SRI.N.RAJENDRAN, S.C

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING COME UP FOR ADMISSION ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

OP (DRT).No. 38 of 2015 (O)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE COPY OF THE LOAN ACCOUNT STATEMENT.

EXHIBIT-P2: TRUE COPY OF THE DEMAND NOTICE DATED 12/12/2013.

EXHIBIT-P3: TRUE COPY OF THE NOTICE DATED 30.08.2014 ISSUED UNDER SECTION 13 (4) OF THE SARFAESI ACT.

EXHIBIT-P4: TRUE COPY OF THE ORDER DATED 14/10/2014 IN S.A.NO.352/2014.

EXHIBIT-P5: TRUE COPY OF THE ACCOUNT STATEMENT.

EXHIBIT-P6: TRUE COPY OF THE SALE NOTICE DATED 23/02/2015.

EXHIBIT-P7: TRUE COPY OF THE ENVELOPE CONTAINING THE REGISTRATION OF THE ARTICLE ON 28/02/2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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O.P.(DRT). No. 38 of 2015

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Dated this the 23rd day of March, 2015

JUDGMENT

The petitioner, who had availed an over draft facility from the respondent bank for a limit of Rs.25,00,000/-, exceeded the limit and defaulted in repayment of the loan amounts. 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.P3 is the possession notice issued to the petitioner under Section 13(4) of the SARFAESI Act and Ext.P6 is the sale notice issued to the petitioner under Section 13 (2) of 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 overdraft facility, is stated to be Rs.1,34,357/- together with accrued interest from 28.02.2015. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,34,357/- together with accrued interest from 28.02.2015 and complies with the other requirements for continuing the overdraft facility with the respondent bank on or before 30.03.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das