IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

OP (DRT).No. 94 of 2014 (O)

SA 126/2014 OF DEBT RECOVERY TRIBUNAL, ERNAKULAM, DATED 20-03-2014

PETITIONER(S):

AJEESH. L, S/O.LAKSHMANAN,
AGED 48 YEARS, RESIDING AT AADITHYA,
ARA-82, NEAR ALAMCODE JUNCTION,
ALAMCODE P.O, ATTINGAL,
THIRUVANANTHAPURAM DISTRICT-691 102.

BY ADV. SRI.SAJU J PANICKER

RESPONDENT(S):

REPCO HOME FINANCE LTD,
TC-25/1655 (6), FIRST FLOOR, REMA PLAZA,
S.S.KOVIL ROAD, THAMPANOOR,
THIRUVANANTHAPURAM-695559,
REPRESENTED BY ITS AUTHORISED OFFICER
UNDER THE SARFAESI ACT, 2002.

BY ADVS. SRI.K.P.SUJESH KUMAR
SMT.KEERTHI K.NARAYANAN

THIS OP (DEBT RECOVERY TRIBUNAL) HAVING BEEN FINALLY HEARD ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

OP (DRT).No. 94 of 2014 (O)

APPENDIX

PETITIONERS' EXHIBITS

P1: **COPY OF THE JUDGMENT DTD.11/4/13 OF THE HON'BLE HIGH COURT OF KERALA IN WRIT PETITION (CIVIL) NO.20715 OF 2012**

P2: **COPY OF THE INTERIM ORDER DTD.20/3/14 PASSED BY THE DEBTS RECOVERY TRIBUNAL IN SA 126/14**

P3: **COPY OF THE DEMAND DRAFTS DRAWN IN FAVOUR OF THE RESPONDENT BANK TOWARDS PAYMENT MADE BY THE PETITONER ALONG WITH PROOF OF DESPATCH**

P4: **COPY OF MEDICAL CERTIFICATE ISSUED TO THE PETITIONER**

P5: **COPY OF THE NOTICE DTD.10/9/14 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED VIDE PROCEEDINGS IN MAC.NO.690/14 IN THE FILE OF THE CHIEF JUDICIAL MAGISTRATE'S COURT, KOLLAM.**

RESPONDENTS' EXHIBITS

R1(A): **COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC.20715/12 DATED 11/4/13**

R1(B): **COPY OF THE ORDER PASSED BY THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM IN SA.126/14 DATED 20/3/14**

R1(C): **COPY OF THE ORDER PASSED BY THE DEBTS RECOVERY TRIBUNAL, ERNAKULAM IN SA.126/14 DATED 21/4/14**

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.
==
O.P.(DRT). No. 94 of 2014
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Dated this the 6th day of April, 2015

JUDGMENT

The petitioner, who had availed a housing 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 notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate's Court, Kollam. 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, is stated to be Rs.16,50,570/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.16,50,570/- together with accrued interest in eight equal and successive monthly installments commencing from 20.04.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das