IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

WA.No. 1148 of 2015 IN WP(C).13375/2015

AGAINST THE JUDGMENT IN WP(C) 13375/2015 DATED 05/05/2015
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APPELLANT/RESPONDENT :

THE CHIEF MANAGER (AUTHORIZED OFFICER)
STATE BANK OF TRAVANCORE, SHANGHUMUGHAM BRANCH
THIRUVANANTHAPURAM REPRESENTED BY ASSISTANT GENERALMANAGER
STATE BANK OF TRAVANCORE
STRESSED ASSETS RESOLUTION CENTRE
THIRUVANANTHAPURAM - 695033.

BY ADV. SRI.JAWAHAR JOSE

RESPONDENT :

H.P.SHABHU, AGED 49 YEARS,
S/O.S.P.HEROC
VAYALIL BHAVAN, KSHB, E.M.S.NAGAR
VANCHIYOOR, THIRUVANANTHAPURAM, PIN. 695 035.

R BY SRI.P.M.JOSHI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 15-10-2015, ALONG WITH WA. 1181/2015, WA. 1185/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

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W.A. Nos. 1148, 1181 & 1185 OF 2015

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Dated this the 15th day of October, 2015

JUDGMENT

Shaffique, J.

These appeals have been filed by the respondent Bank challenging the judgment of learned Single Judge by which the writ petitioners were permitted to repay the amounts due to the Bank by way of installments and Bank had been directed to regularise the loan account.

2. These are all cases in which writ petitioners had approached this Court when proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(for short 'SARFAESI Act') were initiated by the Bank after terminating the loan account. Petitioners *inter alia* contended that if some time is granted, they will be in a position to regularise the loan account.

3. The appeals are filed by the Bank relying upon the judgment of the Supreme Court in **Orissa State Financial**

Corporation and others v. Umesh Chandra Dani [(2001) 10 SCC 522] and judgment of Madras High Court reported in T**.N. Industrial Investment Corporation Ltd., Chennai v. Millenium Business Solutions Pvt. Ltd. and another** [2005 KHC 5768] wherein the respective Courts have taken a view that under Article 226 of the Constitution of India, the High Court shall not direct for regularisation of loan account until there is any statutory violation.

4. Be that as it may, we are informed by learned counsel for the petitioners that they are complying with the directions issued by learned Single Judge. Further we are well aware of the law laid down by the Supreme Court and the restrictions imposed therein, but the fact that when a person has approached this Court seeking for certain concessions, that too without disputing the liability, invoking the jurisdiction under Article 226 of the Constitution, when the learned Single Judge has already exercised the discretion and that too when the writ petitioners are complying with the directions issued, we do not

think it necessary to go into the contentions urged by the appellant Bank in the facts of the present case. Hence we do not intend to interfere with the judgment impugned. The Writ Appeals are disposed of accordingly.

Ashok Bhushan,
Chief Justice.

A.M. Shaffique,
Judge.

ttb/15/10