IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

WA.No. 1680 of 2015 () IN WP(C).18850/2015
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AGAINST THE ORDER/JUDGMENT IN WP(C) 18850/2015 of HIGH COURT OF KERALA DATED 15-07-2015

APPELLANT(S)/RESPONDENT:
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STATE BANK OF TRAVANCORE
REPRESENTED BY AUTHORIZED OFFICER, REGION VI, PALA
ZONAL OFFICE, KOTTAYAM - 686 001.

BY ADV. SRI.R.S.KALKURA

RESPONDENT(S)/PETITIONER:
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KURIAN BABY
S/O.K.K.BABY, PROPRIETOR, M/S.KARUPARAMBIL TRADERS
PLASSANAL P.O., PLASSANAL, KOTTAYAM - 686 001.

BY SRI.H.HAMZA ROWTHER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, C.J.
&
A.M. SHAFFIQUE, J.
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W.A. No. 1680 of 2015
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Dated this, the 3rd day of August, 2015

J U D G M E N T

Shaffique, J.

Respondent in WP(C) No.18850/2015 is the appellant. They challenged judgment dated 15/7/2015 by which the learned Single Judge had interfered with the SARFAESI proceedings initiated by the appellant Bank.

2. Petitioner/respondent herein has approached the learned Single Judge when SARFAESI proceedings were initiated. The Bank had provided a cash credit facility to the respondent and the total dues as on the date of filing the writ petition was ₹25 lakhs. When proceedings were taken, the petitioner had approached the learned Single Judge and submitted that he is ready to renew the cash credit facility as he is continuing the business.

3. Having taken into consideration the factual circumstances involved in the matter, learned Single Judge

disposed of the writ petition permitting the petitioner to remit ₹1.5 lakhs within two weeks from the date of judgment, a further amount of ₹1.5 lakhs within a further period of two weeks and to pay ₹2 lakhs on or before 30/9/2015. Learned single Judge further observed that if the petitioner complies with the said conditions, the petitioner shall place all the relevant records before the Bank to show that he is carrying on business and the Bank was permitted to advert to the genuineness of the claim and consider the request for renewal in accordance with the norms. It was further observed that if the petitioner commits default in complying with any of the conditions, Bank was free to proceed against the petitioner. Further, it was stated that coercive steps shall be deferred in tune with the said directions. It is impugning the aforesaid directions that the Bank has filed the appeal.

4. It is submitted by the learned counsel for the Bank that the petitioner having stopped the business activities, there is no question of considering the claim for renewal of the cash credit facility. In that view of the matter, learned Single Judge was not justified in issuing the directions to consider the renewal of cash credit facility, which is against the norms.

5. Learned counsel for the respondent/writ petitioner would however submit that he is continuing business activity and the business being of a seasonal nature, the petitioner was unable to maintain cash credit facility in accordance with the contract. At any rate, it is submitted that the learned Single Judge had only directed the Bank to consider renewal of the cash credit facility, which need not be disturbed.

6. It is also submitted by the learned counsel for the petitioner that they have offered payment of the amount as directed by the learned Single Judge, but the Bank did not accept the same on the ground that the appeal has already been filed.

7. Having regard to the aforesaid factual situation, we do not think that any modification is required to the directions issued by the learned Single Judge. We only observe that if the petitioner pays the amount as directed by the learned Single Judge, the Bank shall consider the claim for renewal of the cash credit facility as per the norms of the Bank. If the norms of the Bank does not permit the Bank to renew the cash credit facility, it is needless to say that it shall be open for the Bank to reject the same and take appropriate measures in accordance with the

procedure prescribed. Under such circumstance, we do not think it necessary to interfere with the judgment of the learned Single Judge and accordingly, this writ appeal is closed.

However, if the amount has not been accepted by the Bank as directed by the learned Single Judge, the petitioner is entitled to deposit the same within a period of three days from today.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge