IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

WA.No. 2013 of 2015 () IN WP(C).14906/2015

AGAINST THE JUDGMENT IN WP(C) 14906/2015 DATED 24-06-2015

APPELLANT(S)/RESPONDENTS :-
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1. THE AUTHORIZED OFFICER
THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.
MALAPPURAM P.O., MALAPPURAM DISTRICT-676 505.

2. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.
ANGADIPPURAM BRANCH, REPRESENTED BY MANAGER
ANGADIPURAM P.O., MALAPPURAM DISTRICT - 679 321.

BY ADV. SRI.ESM.KABEER

RESPONDENT(S)/PETITIONER :-

SEETHA.M, AGED 62 YEARS
W/O.NARAYANAN, MAKADAYIL KUNDIL HOUSE, ARIPRA P.O.
MALAPPURAM DISTRICT.

BY SRI.U.K.DEVIDAS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 15-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

ASHOK BHUSHAN, C.J &
K. RAMAKRISHNAN, J.
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W.A. No.2013 of 2015
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Dated this the 15th day of December 2015

J U D G M E N T

Ashok Bhushan, CJ.

Heard the learned counsel for the appellants and the learned counsel for the respondent/writ petitioner.

2. This writ appeal has been filed against the judgment dated 24.6.2015 in W.P.(C) No.14906 of 2015, by which, the learned Single Judge disposed of the writ petition directing the Bank to consider the rescheduling of the loan account of the petitioner and permit the petitioner to pay the loan amount in monthly instalment.

3. Learned counsel for the appellants submits that the petitioner, in the writ petition challenging the SARFAESI proceedings, has only prayed for permitting her to pay the loan amount by monthly instalment. It is submitted that the Court, if discretion was to be exercised, should have fixed instalment in payment of the entire outstanding amount. It is further submitted that a loan for a sum of ₹2,00,000/- was taken in the year 2010, which was to be repaid within 96 months. Since the petitioner commits default in repayment of the loan amount, proceedings were initiated.

4. The learned Single Judge, after noticing the fact that the petitioner was working as a coolie and her meagre income, directed the Bank to reschedule the loan account.

5. Learned counsel for the respondent/writ petitioner contended that the earnings of the petitioner is not sufficient to clear off the loan amount in a short period.

After having considered the submissions of the learned counsel for the parties and perused the records, we are of the view that ends of justice can be served in disposing the writ appeal, permitting the respondent/petitioner to deposit the entire outstanding amount along with the interest in 12 monthly instalments. The first instalment shall be paid by the petitioner on or before 31.1.2016. In any event, if any default is committed, it shall be open for the Bank to proceed further with the proceedings under the SARFAESI Act, 2002.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
K. RAMAKRISHNAN
JUDGE

//TRUE COPY//

P.A. TO JUDGE

Jvt/16.12.2015