IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 45 of 2015 (E)

PETITIONER :

SABEENA.R.,
W/O.MR.SAKKER HUSSAIN, AGED 39 YEARS,
RESIDING AT TC 52/720, KRA 241,
MUTHUVILAKATHU VEEDU, KOLIYAKODE,
ESTATE P.O., THIRUVANANTHAPURAM-695 019

BY ADVS.SRI.C.A.MAJEED
SRI.K.H.ASIF
SMT.RAAGA R.RAMALAKSHMI
SMT.ANNA JOHN

RESPONDENT(S):

----

1. UNION OF INDIA,
REPRESENTED BY SECRETARY,
MINISTRY OF FINANCE (BANKING), NORTH BLOCK,
NEW DELHI-110 001.

2. KARAMANA CO-OPERATIVE URBAN BANK LIMITED.,
NO.1761, KARAMANA P.O, THIRUVANANTHAPURAM,
REPRESENTED BY THE AUTHORISED OFFICER,
ASSISTANT GENERAL MANAGER -695 001

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY ADVS. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 45 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 -	**PHOTOCOPY OF THE ORDER IN M.C.1025 OF 2014 DATED 16-10-2014 OF THE LEARNED CHIEF JUDICIAL MAGISTRATE, THIRUVANANTHAPURAM.**
EXT.P2 -	**PHOTOCOPY OF THE NOTICE OF INSPECTION BY THE ADVOCATE COMMISSIONER ON 06-01-2015**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.45 OF 2015 (e)

Dated this the 24th day of February, 2015

J U D G M E N T

The petitioner, who had availed of a 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.P1 is the order of the Chief Judicial Magistrate Court, Thiruvananthapuram, appointing an Advocate Commissioner and Ext.P2 is the notice issued by the Advocate Commissioner to take possession of the property mortgaged by the petitioner for the loan availed from the respondent bank. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Sri.C.A.Majeed, the learned counsel appearing for the petitioner as also Sri.R.S.Kalkura, the learned Standing counsel appearing for the respondent Bank.

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 her 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.1,10,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount together with accrued interest in ten equal and successive monthly installments commencing from 10.3.2015, then the cash credit facility availed by the petitioner shall be regularised by the respondent bank, subject to the petitioner maintaining the limit of the cash credit loan and complying with other formalities.
>
> (ii) It is made clear that if the petitioner commits a default in respect of any of the installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp