IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 340 of 2015 (N)

PETITIONER(S):

AMRUTHA V.P.,
PARASSERY HOUSE, CHELANNUR P.O., KOZHIKODE- 673 616.

BY ADVS.SRI.ARUN AJAY SHANKAR
SRI.N.ANAND

RESPONDENT(S):
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1. THE KOZHIKODE DISTRICT CO-OPERATIVE BANK,
   KALLAI ROAD, KOZHIKODE - 673 002,
   REPRESENTED BY ITS GENERAL MANAGER.

2. THE AUTHORISED OFFICER,
   KOZHIKODE DISTRICT CO-OPERATIVE BANK, KALLAI ROAD,
   KOZHIKODE - 673 002.

BY ADV. SRI.R.SUDHISH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 340 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE LETTER DATED 09/07/2012 ADDRESSED BY THE PETITIONER TO THE RESPONDENT BANK.

EXT.P2: TRUE COPY OF THE CERTIFIED COPY OF THE JUDGMENT DATED 03/09/2012 IN W.P.(C) NO. 19150/2012.

EXT.P3: TRUE COPY OF THE NOTICE FOR SALE DATED 01/03/2014.

EXT.P4: TRUE COPY OF THE NOTICE FOR SALE DATED 26/11/2014.

EXT.P5: TRUE COPY OF THE SALE NOTICE PUBLISHED IN THE MALAYALA MANORMA DATED 04/12/2014.

EXT.P6: TRUE COPY OF THE ORDER DATED 26/08/2014 PASSED BY THE HON'BLE SUPREME COURT OF INDIA IN W.P.(C) NO. 779 OF 2014.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.340 OF 2015 (N)

Dated this the 7th day of January, 2015

J U D G M E N T

The petitioner, who had availed of two consumer loans of Rs.5,00,000/- and Rs.3,40,000/- 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. Exts.P4 and P5 are the sale notices issued by the respondent bank in terms of the SARFAESI Act posting the sale of the secured assets to 8.1.2015. 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.N.Anand, the learned counsel appearing for the petitioner as also Sri.R.Sudhish, 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 amount outstanding to the respondent bank from the petitioner is stated to be Rs.18,91,860/- as on 31.12.2014. Accordingly, if the petitioner effects payment of Rs.2,50,000/- on or before 15.2.2015, another Rs.2,50,000/- on or before 15.3.2015 and the balance amounts in six equal monthly installments commencing from 15.4.2015, then the recovery steps initiated against her by the respondent bank shall be kept in abeyance.
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> (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.

(iii) The sale of the secured assets scheduled to be held on 8.1.2015 shall be deferred in line with the directions issued in this judgment.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp