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. 452 of 2015 (F)

PETITIONER :

VIJAYANANDAN, AGED 60,
S/O.APPAKUTTANASARI,
AYIRAKKODU MELE PUTHEN VEEDU,
MANALOOR, NEYYATTINAKRA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.A.AHZAR

RESPONDENT :

NEYYATINKARA CO-OPERATIVE URBAN
BANK LTD.NO.931,
NEYYATTINKARA,
REPRESENTED BY ITS MANAGER AND
AUTHORIZED OFFICER, PIN - 695 121

BY ADV. SRI.R.T.PRADEEP

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

rkj

WP(C).No. 452 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS :-

EXHIBIT P1 :- TRUE COPY OF THE PAGES OF THE PASS BOOK.

EXHIBIT P1(A) :- TRUE COPY OF THE PAGES OF THE PASS BOOK.

EXHIBIT P2 :- TRUE COPY OF DEATH CERTIFICATE DATED 21/7/2014.

EXHIBIT P3 :- TRUE COPY OF THE MEDICAL REPORT DATED 10.09.2014.

EXHIBIT P4 :- TRUE COPY OF THE ORDER OF THE HONOURABLE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS :- NIL
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//TRUE COPY//

P.A. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 452 of 2015 (F)

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Dated this the 7th day of January, 2015

<u>JUDGMENT</u>

The petitioner, who had availed of a loan from the respondent Bank, defaulted in re-payment 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', against the petitioner. Ext.P4 is the order passed by the Chief Judicial Magistrates Court, Thiruvananthapuram appointing an Advocate Commissioner to take possession of the immovable property that was offered as security to the respondent Bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Ahzar.A., the learned counsel appearing for the petitioner and Sri.R.T.Pradeep appearing for the respondent.

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 him to remit the overdue amount 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 as on today is stated to be an amount of Rs.1,37,638/-. Accordingly, if the petitioner remits an amount of Rs.1,37,638/- together with accrued interest up to date in three equal and successive monthly installments commencing from 30.01.2015, and continues to pay the loan installments as per the original loan schedule, then, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

ii) It is made clear that, if the petitioner commits a default in respect of any of the installments, he will lose the benefits of this judgment and the respondent bank will be free to continue the recovery proceedings against him from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/07/01/