IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 556 of 2015 (T)

PETITIONER:

K.G.SHINOJ, AGED 29 YEARS,
M/S.THREE STAR TIMBERS, S/O.GOPI,
KOLLARA HOUSE ,CHAKIARKADAVU,
KODANNUR POST, THRISSUR.

BY ADV. SMT. E.V. MOLY

RESPONDENT:

UNION BANK OF INDIA,
CHERPU BRANCH,
REPRESENTED BY ITS AUTHORIZED OFFICER,
THRISSUR - 680 001.

R1 BY ADV. SRI.A.S.P. KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 556 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 - COPY OF THE LAWYER NOTICE DATED 30-10-14

EXT.P2 - COPY OF THE POSSESSION NOTICE ISSUED UNDER RULE 8(1) OF THE SECURITY INTEREST ENFORCEMENT RULE 2002.

EXT.P3 - COPY OF THE PAYMENT RECEIPTS DATED 6-11-14 AND 18-12-14.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No. 556 of 2015 (T)

...

Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner, who had availed of a Cash Credit facility 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.P2 is the possession notice issued under Rule 8(1) of SARFAESI Act, to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Smt.Moly E.V., the learned counsel appearing for the petitioner, Sri.A.S.P.Kurup, learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total 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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.25,76,308/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.25,76,308/- together with accrued interest in twelve equal and successive monthly installments commencing from 20.02.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the 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/02/02/