IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No. 605 of 2015 (A)

PETITIONER:

PREMALATHA P. M., AGED 32 YEARS
PYALLIL,
THEKKATHIL,
ENNAKKADU P.O.
CHENGANNUR-689624.

BY ADV. SMT.E.V.MOLY

RESPONDENT:

STATE BANK OF INDIA
KOLLAKADAVU BRANCH,
ALAPPUZHA,
REPRESENTED BY ITS AUTHORIZED OFFICER.

R BY SRI.R.S.KALKURA, SC, STATE BANK OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 605 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBTI P1: THE TRUE COPY OF THE LOAN ACCOUNT STATEMENT.

EXHIBIT P2: THE TRUE COPY OF THE EXTRACT OF THE LAWYER NOTICE.

EXHIBIT P3: THE TRUE COPY OF THE INTIMATION DATED 8.10.14 ISSUED BY THE RESPONDENT BANK.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.605 OF 2015

Dated this the 17th day of March, 2015

<u>J U D G M E N T</u>

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. Under these proceedings, the respondent bank also took over possession of the vehicle which was the secured asset. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Government Pleader appearing on behalf of 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 balance amounts outstanding to the bank in easy instalments. 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.2,00,728/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,00,728/-, together with accrued interest, in 10 equal and successive monthly instalments commencing from 31.03.2015, then the further proceedings for recovery of loan amounts from the petitioner shall be kept in abeyance.

(ii) It is made clear that on the amounts repaid by the petitioner, pursuant to this judgment, touching the figure of Rs.1,00,000/-, the respondent bank shall return possession of the vehicle to the petitioner.

(iii) It is made clear that if the petitioner commits a default in respect of any of the instalments, he will lose the benefit 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns