IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 706 of 2015 (K)

PETITIONER(S):

MUJEEB REHMAN,AGED 40 YEARS,
S/O.ABOOBACKER HAJI, NARIYOOKKIL HOUSE,
THACHAMPOYIL P.O., THAMARASSERY-673 573.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT(S):

1.KOZHIKODE DISTRICT CO-OPERATIVE BANK,
REPRESENTED BY ITS GENERAL MANAGER,
KALLAI ROAD, CHALAPPRAM, KOZHIKODE 673 002.

2.THE MANAGER, KOZHIKODE DISTRICT CO-OPERATIVE BANK,
BALUSSERY BRANCH, KOZHIKODE - 673 612.

3.AUTHORISED OFFICER/SENIOR MANAGER,
KOZHIKODE DISTRICT CO-OPERATIVE BANK,
RECOVERY SECTION, KALLAI ROAD, CHALAPPRAM,
KOZHIKODE - 673 002.

R1 -R 3 BY ADV. SRI.R.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK, LTD.
R BY SRI.R.SUNIL.K.R., SC, KOZHIKODE DIST.CO.OP. BANK, LTD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.706/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE PASS BOOK ISSUED BY THE BANK TO THE PETITIONER.

EXT.P2: COPY OF THE NOTICE NO.REF: HO/R.CELL/SARFAESI/4225/BSLY/HLD005012014-15 DATED 24.6.14 ISSUED BY THE 3RD RESPONDENT.

EXT.P3: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 2.1.15.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.706 OF 2015 (K)

Dated this the 9th day of February, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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.P2 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act. 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.P.V.Kunhikrishnan, the learned counsel appearing on behalf of the petitioner as also Sri.Sunil.K.R., the learned Standing counsel appearing on behalf of the respondents.

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 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.1,65,000/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,65,000/- together with accrued interest in six equal and successive monthly installments commencing from 1.3.2015 and continues to keep up the regular installment payments 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 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

prp