IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 885 of 2015 (I)

PETITIONER(S) :

ABDUL RASHEED, AGED 60 YEARS,
S/O.AMEEN PILLAI, RIYAZ VILLA, KAVARA,
NELLANADA, VENJARAMOODU P.O.,
THIRUVANANTHAPURAM DISTRICT 695 607.

BY ADV. SRI.VENJARAMOODU M.ZIYAD

RESPONDENT(S) :

THE AUTHORIZED OFFICER, INDUSTRIAL BANK LTD.,
RAMA BHAVAN, TOLL JUNCTION, EDAPPALLY,
KOCHI.

BY ADV. SRI.VARGHESE C.KURIAKOSE, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AMV

WP(C).No. 885 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1 : COPY OF TGHE ORDER IN MC NO. 1348/2014 PASSED BY THE CHIEF JUDICIAL MAGISTRATE ,TRIVANDRUM DATED 18/12/2014.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.885 of 2015 (I)

...

Dated this the 21st day of January, 2015

JUDGMENT

The petitioner, who had availed of a vehicle 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.P1 is the notice, issued under Section 14 of SARFAESI Act, by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Thiruvananthapuram, 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. I have heard Sri.Venjaramoodu M.Ziyad, learned counsel for the petitioner and Sri.Varghese C.Kuriakose, 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 overdue amount 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 from the petitioner to the respondent Bank as of today is stated to be Rs.66,000/-. Accordingly, if the petitioner remits the amount of Rs.66,000/- on or before 16.02.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him pursuant to Ext.P1 notice, shall be kept in abeyance.

(ii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, 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/21/01/