IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 1083 of 2015 (I)

PETITIONER(S):

BINESH VARGHESE, AGED 35 YEARS,
S/O.VARGHESE, ATTUPURATH HOUSE,
EZHAKKARANADU P.O.,
PUTHENCRUZ, ERNAKULAM - 682 308.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENT(S):

AUTHORISED OFFICER,
INDUSIND BANK LTD., OPP. JAYALAKSHMI SILKS,
M.G.ROAD, KOCHI - 682 035.

BY ADV. SRI.VARGHESE C.KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 1083 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1:A TRUE COPY OF THE ORDER IN CRL.M.P.5893/2014 OF HON'BLE CHIEF JUDICIAL MAGISTRATE COURT DATED 26.11.2014.

RESPONDENT(S)' EXHIBITS:
--

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1083 OF 2015

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner, who had availed of a vehicle loan for Rs.9 lakhs in the year 2012, 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.P1 is the order of the Chief Judicial Magistrate issued under Section 14 of the SARFAESI Act. It is submitted that pursuant to Ext.P1, the possession of the vehicle was also taken over by the respondent bank. 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.N.K.Mohanlal, the learned counsel appearing on behalf of the petitioner as also Sri.Varghese Kuriakose, the learned Standing counsel appearing on behalf of the respondent bank.

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 petitioners 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 overdue amount in respect of the loan from the petitioner is stated to be Rs.2,20,000/-. Accordingly, on the petitioner effecting a payment of Rs.50,000/-, the respondents shall handover possession of the vehicle to him. Thereafter, the petitioner shall effect a further payment of Rs.50,000/- on 31.01.2015. The balance amount outstanding shall be paid by the petitioner in four equal and successive monthly instalments commencing from 28.02.2015. The petitioner shall also continue to effect the monthly instalment payments as per the original loan schedule. If the petitioner complies with the said conditions, then the recovery steps initiated 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 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.

Iii)The petitioner shall not alienate the vehicle during the subsistence of the loan agreement.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns