IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 1203 of 2015 (A)

PETITIONER(S) :

SAM RAPHAEL, AGED 25 YEARS,
SON OF MR.RAPHEAL U.X., UZHUNUMAKATTIL HOUSE,
CHENGOTHUKUNNU ROAD, KONGORPILLY (PO),
ERNAKULAM DISTRICT, PIN- 683 525.

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SRI.M.M.SHAJAHAN

RESPONDENT(S):
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1. UNION OF INDIA,
   MINISTRY OF FINANCE DEPARTMENT OF FINANCIAL SERVICES,
   3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD MARG,
   NEW DELHI, PIN 110 001,
   REPRESENTED BY ITS FINANCE SECRETARY.

2. STATE BANK OF TRAVANCORE,
   HEAD OFFICE, P.B.NO.34, POOJAPURA,
   THIRUVANANTHAPURAM-695 012,
   REPRESENTED BY ITS MANAGING DIRECTOR.

3. AUTHORISED OFFICER/BRANCH MANAGER,
   STATE BANK OF TRANVANCORE, VARAPUZHA BRANCH,
   VITHAYATHIL BUILDING, SNDP JUNCTION, VARAPUZHA (PO),
   ERNAKULAM-683 517.

4. AUTHORISED OFFICER,
   STATE BANK OF TRAVANCORE, REGION-1, ZONAL OFFICE,
   PANAMPALLY NAGAR, ERNAKULAM-682 020.

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 TO R4 BY ADVS. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 1203 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: **THE COPY OF LOAN SANCTION LETTER ISSUED BY THE 3RD RESPONDENT.**

EXHIBIT-P2: **THE COPY OF THE LOAN AGREEMENT.**

EXHIBIT-P3: **THE COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 ISSUED BY THE 4TH RESPONDENT.**

EXHIBIT-P4: **THE COPY OF THE POSSESSION NOTICE ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1203 OF 2015

Dated this the 13th day of January, 2015

J U D G M E N T

The petitioner, who had availed of an education 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.P3 is the demand notice 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.Shaji Chirayath, the learned counsel appearing on behalf of the petitioner as also Sri.Santhosh Ninan, 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 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 outstanding from the petitioner in respect of the education loan is stated to be an amount of Rs.2,34,147/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,34,147/- in eight equal and successive monthly instalments commencing from 15.02.2015, and continues to effect payment of instalments as per the original loan schedule, then the further proceedings for recovery of the loan amounts 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns