IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 1227 of 2015 (C)

PETITIONER:

BINU O. AGED 38 YEARS
S/O OONNOONNY, MULAMOOTTIL VEEDU, VENGOOR (PO)
ELAMADU VILLAGE, AYUR, KOTTARAKARA TALUK
KOLLAM DISTRICT

BY ADV. SRI.K.V.ANIL KUMAR

RESPONDENT(S):
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1. THE AUTHORISED OFFICER
HDFC BANK LTD, HDFC HOUSE, P.B. NO.2288
VAZHUTHACAD, THIRUVANANTHAPURAM, PIN- 695 010

2. THE MANAGER,
HDFC BANK LTD, KOLLAM BRANCH, CHINNAKKADA
KOLLAM, PIN- 691 001

BY ADV. SRI.K.K.CHANDRAN PILLAI (SR.)
BY ADV. SMT.S.AMBILY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1227 of 2015 (C)

APPENDIX

PETITIONER' EXHIBITS :

EXHIBIT P1: A TRUE COPY OF THE NOTICE DATED 24.12.2014 ISSUED BY THE ADVOCATE COMMISSIONER IN C.M.P NO.9854 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM.

RESPONDENT(S)' EXHIBITS : NIL

// TRUE COPY

P.A TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1227 OF 2015

Dated this the 14th day of January, 2015

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

The petitioner, who had availed of a consumer loan of Rs.4.5 lakhs from the respondent bank in 2006, 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 notice of the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court to take possession of the secured assets. 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.K.V.Anil Kumar, the learned counsel appearing on behalf of the petitioner as also Smt.Ambily.S, 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 in respect of the loan is stated to be is Rs.1,21,574/-. Accordingly, if the petitioner pays the aforesaid amount of Rs..1,21,574/- together with accrued interest in five equal and successive monthly instalments commencing from 15th February, 2015, and continues to pay the regular instalments as per the original loan schedule, then the further proceedings for recovery of loan amounts from the petitioner 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

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