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. 1243 of 2015 (E)

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PETITIONER(S) :

BABU MENON, AGED 54 YEARS,
S/O.VENUGOPAL, M/S.VINAYAKA PROTIENS, POTTUR,
MUTHUR P.O, MALAPPURAM DISTRICT,
RESIDING AT NO.6 SKYLINE MANSON, GANDHINAGAR,
KADAVANTHRA, COCHIN-17.

BY ADV. SRI.J.ABHILASH

RESPONDENT(S) :

VIJAYA BANK, VAVANNOOR BRANCH,
P.K.ROAD, VAVANNOOR P.O., REPRESENTED BY ITS
MANAGER, PIN- 679 533.

BY ADVS. SRI.K.ANAND (SENIOR ADVOCATE)
SMT.LATHA KRISHNAN

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

Msd.

WP(C).No. 1243 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE NOTICE DATED 08.01.2013 BY THE RESPONDENT.

EXHIBIT P2: TRUE COPY OF THE APPLICATION UNDER SEC 14(1) OF SECURITIZATION ACT DATED 04.03.2013.

EXHIBIT P3: TRUE COPY OF RECEIPT DATED 30.03.2013.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.1243 of 2015 (E)

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Dated this the 15th day of January, 2015

JUDGMENT

The petitioner, who had availed of a business loan of Rs.6,00,000/-, and an Overdraft facility for a limit of Rs.24,00,000/-, from the respondent Bank in the year 2011, 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 13(2) of the SARFAESI Act to the petitioner in that regard. Ext.P2 is the application preferred by the Bank before the Chief Judicial Magistrate, Manjeri to take possession of the property that was offered as security to the respondent bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. Heard Sri.J.Abhilash, the learned counsel appearing for the petitioner, Smt.Latha Krishnan, learned Standing counsel appearing for the respondent Bank.

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 total amount 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 amount outstanding from the petitioner to the respondent bank as of today is stated to be Rs.40,18,040/- together with accrued interest. Accordingly, if the petitioner effects a payment of Rs.20,00,000/- on or before 15.02.2015, and pays the balance amount by 15.03.2015; then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the Bank shall be kept in abeyance.
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> (ii) It is made clear that, if the petitioner commits a default in respect of any of the installments as aforementioned, 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/15/01/