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.1358 of 2015 (T)

PETITIONER:

ANNAMMA KURIAKOSE,THANDASSERIL HOUSE,
THIRUVANCHOOR P.O.,KOTTAYAM DISTRICT.

BY ADV. SRI.P.I.GEORGEKUTTY

RESPONDENTS:
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1. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD,
REPRESENTED BY ITS MANAGER OF MANARCADU BRANCH,
KOTTAYAM DISTRICT,PIN - 686 001.

2. THE AUTHORISED OFFICER,
THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD,
KOTTAYAM DISTRICT,PIN - 686 002.

R1-R 2 BY SRI.SUNIL CYRIAC,SC,DIST.CO-OP,BANK,KTM

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

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WP(C).No.1358 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1-THE TRUE COPY OF THE STATEMENT OF THE LOAN ACCOUNT TILL 17.9.14.

EXT.P2-THE TRUE COPY OF THE NOTICE UNDER SEC.13(2) OF THE SECURITIZATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

EXT.P3-THE TRUE COPY OF THE RECEIPT FOR PAYMENT OF RS.40,000/- TOWARDS THE LOAN DT. 17.9.14.

EXT.P4-THE TRUE COPY OF THE NOTICE RECEIVED FROM THE COMMISSIONER ADVOCATE, DT. 31.12.14.

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1358 OF 2015 (T)

Dated this the 14th day of January, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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.P2 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act. Ext.P4 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Kottayam, to take possession of the immovable 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. I have heard Sri.P.I.Georgekutty (Puthanangady), the learned counsel appearing for the petitioner as also Sri.Sunil Cyriac, the learned Standing counsel appearing for 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 her to remit the balance amounts 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 overdue amount to the respondent bank from the petitioner is stated to be Rs.1,52,000/- together with accrued interest. Accordingly, if the petitioner pays the amount of Rs.1,52,000/- together with accrued interest in four equal and successive monthly installments commencing from 15.2.2015, and continues to pay the regular installments as per the original loan schedule, the recovery steps initiated against her by the respondent 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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