IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 1403 of 2015 (A)

PETITIONER :

SANTHOSH KUMAR KOSH, AGED 42 YEARS,
S/O SIVARAJAN, RESIDING AT 'CHITRA NIVAS',
ANAYARA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.RAJESH P.NAIR

RESPONDENT :

DEWAN HOUSING FINANCE CORPORATION (DHFL),
TWINKLE PLAZA, PANAVILA JUNCTION, THYCAUD P.O.,
THIRUVANANTHAPURAM,PIN-695 001
REPRESENTED BY ITS AUTHORIZED OFFICER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 1403 of 2015 (A)
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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE INDIVIDUAL LOAN STATEMENT OF THE PETITIONER, WHICH SHOWS THE REPAYMENTS EFFECTED BY THE PETITIONER, FOR THE PERIODS 2012-2013, 2013-2014 AND 2014-2015.

EXHIBIT P2: TRUE COPY OF THE COUNTERFOILS ISSUED BY THE UNION BANK OF INDIA DATED 13.10.2014 AND SOUTH INDIAN BANK DATED 29.11.2014.

EXHIBIT P3: TRUE COPY OF THE WARRANT DATED 23.10.2014 AUTHORIZING THE COMMISSIONER TO TAKE POSSESSION OF THE PROPERTY.

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 17.12.2014 OF THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.1403 of 2015

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Dated this the 28st day of January, 2015

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

The petitioner who had availed of a NRI housing loan from the respondent, defaulted in repayment of the same. Consequently, the respondent 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.P4 is the copy of the notice of the Advocate Commissioner. 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.Rajesh P. Nair, the learned counsel for the petitioner.

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 amount overdue from the petitioner to the respondent is stated to be Rs.20,47,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.20,47,000/- in six equal and successive monthly instalments commencing from 15.02.2015, and keeps up the regular instalmment payments as per the original loan schedule, then further proceedings for recovery of the loan amounts by the respondent 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 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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