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. 1469 of 2015 (G)

PETITIONER(S):

P.P.YAHU, AGED 59 YEARS,
S/O.BEERANKUTTY, PUTHANPARAMBIL HOUSE,
P.O.PANGATHOOR, MALAPPURAM DISTRICT, PIN-676302.

BY ADVS.SRI.K.P.SUDHEER
SRI.Y.JAFAR KHAN

RESPONDENT(S):

THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LIMITED,
MALAPPURAM HEAD OFFICE, UP HILL,
MALAPPURAM-676505,
REPRESENTED BY ITS AUTHORISED OFFICER.

BY SRI.ESM.KABEER

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

PJ

WP(C).No. 1469 of 2015 (G)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF POSSESSION NOTICE DATED 13/12/12 ISSUED BY THE RESPONDENT TO THE PETITIONER UNDER SEC.13(4) OF THE SARFAESI ACT

P2: COPY OF SALE NOTICE DATED 25/9/13 ISSUED BY THE RESPONDENT

P3: COPY OF JUDGMENT DATED 21/10/13 IN WPC.25584/13 PASSED BY THIS HONOURABLE COURT

P4: COPY OF NOTICE DATED 10/12/13 ISSUED BY THE RESPONDENT TO THE PETITIONER

P5: COPY OF DISCHARGE SUMMARY DATED 15/2/14 ISSUED BY AKG MEMORIAL CO-OPERATIVE HOSPITAL IN FAVOUR OF THE PETITIONER

P6: COPY OF APPLICATION DATED 21/10/14 AND NUMBERED AS CMP 3816/14 FILED BY THE RESPONDENT BANK UNDER SEC.14(1) OF THE SARFAESI ACT BEFORE THE CHIEF JUDICIAL MAGISTRATE'S COURT, MANJERI.

P7: COPY OF NOTICE DATED 6/1/15 ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED IN CMP NO.3816/14 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE'S COURT, MANJERI.

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.1469 OF 2015 (G)

Dated this the 15th day of January, 2015

J U D G M E N T

The petitioner, who had availed of a 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.P1 is the possession notice issued to the petitioner under Section 13(4) of the SARFAESI Act. Ext.P7 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Manjeri 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.K.P.Sudheer, the learned counsel appearing for the petitioner as also Sri.E.S.M.Kabeer, the learned Standing counsel appearing for the respondent Bank.

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 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 to the respondent bank from the petitioner is stated to be Rs.5,02,620/- together with accrued interest and other charges. Accordingly, if the petitioner pays the amount of Rs.5,02,620/- together with accrued interest and other charges in ten equal and successive monthly installments commencing from 15.2.2015, then the recovery steps initiated against him 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, 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

prp