IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 1871 of 2015 (H)

PETITIONER :

S.SANTHOSH KUMAR,
T.C. 40/31, INDIRA SADANAM, KLRA 90,
KUKKILIYA LANE, THIRUVANANATHAPURAM - 695 014.

BY ADV. SRI.A.S.SHAMMY RAJ

RESPONDENTS:
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1. **CANARA BANK,**
   REPRESENTED BY ITS MANAGER,
   PUTHENCHANTHA BRANCH,
   THIRUVANANTHAPURAM - 695 001.

2. **AUTHORISED OFFICER,**
   CANARA BANK, PUTHENCHANTHA BRANCH,
   THIRUVANANTHAPURAM - 695 001.

R1 & R2 BY DR.PAULY MATHEW MURICKEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 1871 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **TRUE COPY OF THE SALE NOTICE DATED 16/12/2014 ISSUED BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.1871 of 2015

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Dated this the 12th day of February, 2015

J U D G M E N T

The petitioner who had availed of an open cash credit facility for Rs.39,00,000/- 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 sale notice. 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.A.S.Shammy Raj, the learned counsel for the petitioner and Sri.Pauli Mathew Muricka, the learned Standing Counsel appearing on behalf of 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 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 outstanding from the petitioner to the respondent bank, in respect of the loan is stated to be Rs.37,36,905/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.37,36,905/- together with accrued interest in 12 equal and successive monthly instalments commencing from 01.03.2015, further proceedings for recovery 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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