IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 1872 of 2015 (H)

PETITIONER(S) :

GIRILAL.M.R., AGED 43 YEARS,
S/O.D.MADHUSOODHANAN NAIR, GIRI COTTAGE, NEAR ITI,
CHACKAI, PETTAH P.O., THIRUVANANTHAPURAM TALUK
THIRUVANANTHAPURAM DISTRICT - 695 024.

BY ADVS.SRI.JOHNSON GOMEZ
SRI.S.BIJU (KIZHAKKANELA)

RESPONDENT(S)/RESPONDENTS :

UNION BANK OF INDIA,
KARAMANA BRANCH,
REPRESENTED BY AUTHORIZED OFFICER/ASSISTANT GENERAL
MANAGER, MAIN BRANCH, M.G.ROAD, STATUE,
THIRUVANANTHAPURAM - 695 001.

BY SRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

AMV

WP(C).No. 1872 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1: COPY OF THE WARRANT DATED 10/10/2014 ISSUED BY THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.

EXT.P2: COPY OF THE NOTICE DATED 13/01/2015 ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER.

EXT.P3: COPY OF THE REPRESENTATION DATED 14/01/2015 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AMV

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No. 1872 of 2015 (H)

...

Dated this the 21st day of January, 2015

JUDGMENT

The petitioner, who had availed of a vehicle loan from the respondent Bank, 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.P2 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Thiruvananthapuram, to the petitioner in that regard. 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.Johnson Gomez, learned counsel for the petitioner and Sri.A.S.P.Kurup, learned Standing counsel appearing for the respondent.

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 outstanding amount 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 is stated to be a little over of Rs.2,00,000/- together with accrued interest. Accordingly, if the petitioner remits the entire amount outstanding to the Bank in eight equal and successive monthly installment commencing from 16.02.2015, then, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

(ii) The petitioner shall, on or before 15.03.2015, produce the vehicle, in respect of which a hypothecation has been noted in favour of the respondent bank, before the Bank or, if the vehicle is not available, the petitioner shall give information to the Bank regarding the whereabouts of the vehicle, so as to enable the respondent Bank to pursue remedies for securing the vehicle.

(iii) It is made clear that, if the petitioner commits a default in respect of any of the instalments, 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/21/01/