IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

WP(C).No. 1940 of 2015 (N)

PETITIONER(S):

USMAN .P., S/O.ABDUL RAHIMAN,
AGED 38 YEARS, PARALIYIL HOUSE, VILATHUR. P.O.,
THIRUVEGAPPURA, PALAKKAD DISTRICT.

BY ADVS.SRI.BINOY VASUDEVAN,
SMT.P.G.BABITHA.

RESPONDENT(S):
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1. **THE KERALA STATE CO-OPERATIVE BANK LIMITED,**
   HEAD OFFICE, CO-BANK TOWERS,
   THIRUVANANTHAPURAM-695 003,
   REPRESENTED BY ITS GENERAL MANAGER.

2. **THE AUTHORIZED OFFICER,**
   THE KERALA STATE CO-OPERATIVE BANK LIMITED,
   REGIONAL OFFICE, DORAI SWAMI IYER ROAD, KOCHI-682 035.

3. **THE BRANCH MANAGER,**
   KERALA STATE CO-OPERATIVE BANK LIMITED,
   PALAKKAD BRANCH, NURANI. P.O.,
   PALAKKAD DISTRICT-678 004.

BY ADV. SRI.GEORGE POONTHOTTAM, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 1940 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- TRUE COPY OF THE NOTICE ISSUED UNDER RULE 8(1) OF THE SECURITY INTEREST (ENFORCEMENT) RULE 2002.

P2- TRUE COPY OF THE COMPOSITE SALE NOTICE PUBLISHED IN THE MATHRUBOOMI DAILY DATED 04.12.2014.

P3- TRUE COPY OF THE NOTICE FROM THE 3RD RESPONDENT INTIMATING THE SALE OF THE PROPERTY TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C).No.1940 of 2015

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Dated this the 20th day of January, 2015

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

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.P1 is the notice stating possession. Ext.P3 is the notice intimating the sale of the property of the petitioaner. 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.Binoy Vasudevan, the learned counsel for the petitioner and Sri.George Poonthottam, the learned Standing counsel appearing on behalf of 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 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 overdue amount in respect of the loan availed by the petitioner is stated to be an amount of Rs.4,23,700/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,23,700/- together with accrued interest in six equal and successive monthly instalments commencing from 15.02.2015, and continues to pay the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent Bank 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

mns/