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. 1953 of 2015 (T)

PETITIONER(S):

S. CHANDRASEKHARAN NAIR,
S/O.SAROJINI, AGED 40 YEARS,
VALIYAVILA PUTHENVEEDU, MUTTAKADU,
PERUMPAZHUTHOOR. P.O., NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER.

RESPONDENT(S):

NEYYATTINKARA CO-OPERATIVE URBAN BANK LTD.,
REPRESENTED BY ITS AUTHORIZED OFFICER,
OPPOSITE MUNICIPAL OFFICE, NEYYATTINKARA-695 101.

BY ADV. SRI.R.T.PRADEEP.

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. 1953 of 2015 (T)

APPENDIX

PETITIONER'S EXHIBITS:-

P1- TRUE COPY OF M.C.NO.1104/2014 FILED THE RESPONDENT BEFORE CJM COURT, THIRUVANANTHAPURAM.

P2- TRUE COPY OF THE ORDER PASSED BY THE LEARNED CJM, THIRUVANANTHAPURAM ON 28.10.2014.

P3- TRUE COPY OF THE ORDER ISSUED TO ADVOCATE COMMISSIONER ATHIRA V.R.

P4- TRUE COPY OF THE NOTICE ISSUED BY ADVOCATE ATHIRA V.R. TO PETITIONER.

RESPONDENT'S EXHIBITS:- **NIL.**

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.1953 of 2015

....

Dated this the 20th 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.P4 is the copy of the notice issued by the Advocate Commissioner pursuant to Ext.P2 order of the Chief Judicial Magistrate, Thiruvananthapuram. 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.G.Sudheer, the learned counsel for the petitioner and Sri.R.T.Pradeep, the learned Standing counsel appearing on behalf of the respondent.

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 Rs.91,111/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.91,111/- 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/