IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY,THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 2174 of 2014 (V)

PETITIONER : -

KANDUNNI, AGED 54 YEARS,
S/O.KESAVAN, 13/442, KOTTAMPADAM,
KAVILPPADU, PALAKKAD DISTRICT.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS : -

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1. SPECIAL SALE OFFICER,
   ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),
   PALAKKAD - 678 706.

2. THE PALAKKAD CO-OPERATIVE URBAN BANK LTD,
   F 997 PB 49, OLAVAKKOT,
   PALAKKAD - 678 701.REP. BY SECRETARY.

R2 BY ADV. SRI.N.RAGHURAJ
R2 BY ADV. SRI.A.V.RAVI
R2 BY ADV. SMT.K.AMMINIKUTTY
R1 BY SR. GOVERNMENT PLEADER SRI. K.C. VINCENT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 2174 of 2014 (V)

APPENDIX

PETITIONER'S EXHIBITS : -

EXT.P-1 : THE TRUE COPY OF THE NOTICE ISSUED BY THE ARBITRATION EXECUTION INSPECTOR DATED 23.10.2009.

EXT.P-2 : THE TRUE COPY OF THE NOTICE ISSUED BY 2ND RESPONDENT DATED 5.11.2009.

EXT.P-3 : THE TRUE COPY OF THE NOTICE DATED 30.12.13 ISSUED BY THE SPECIAL SALE OFFICER.

RESPONDENTS' EXHIBITS : - NIL.

//TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 2174 of 2014

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Dated this the 01st day of July, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondent, apart form perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated when the petitioner, who availed himself of a housing loan of Rs.60,000/- from the second respondent Bank in 2004, committed default, the respondent Bank initiated recovery proceedings and obtained an arbitration award in A.R.C. No. 2164/2007. Pursuant to the said award, when the respondent Bank issued Exhibit P3 sale notice, aggrieved thereby the petitioner has approached this Court.

3. Today, the learned counsel for the petitioner has submitted that the petitioner, despite his best efforts, could not repay the loan amount owing to stringent financial conditions faced by him. Accordingly, the petitioner has sought indulgence of this Court for a direction to the respondent Bank to receive the outstanding loan amount in instalments from the petitioner.

4. Before appreciating the submissions of the learned counsel for the second respondent, it is to be placed on record that expansive as jurisdiction of Article 226 of the Constitution of India may be, I am afraid, it does not go to the extent of interdicting contractual terms, especially in a financial transaction involving public money, so as to compel the respondent Bank to agree for instalments.

5. Be that as it may, evidently being fully aware of the difficulties involved in realizing the loan amounts through the process of invidious sale of the property, the learned counsel for the second respondent, to his credit, evidently on instructions, has submitted that the respondent Bank is willing to collect the outstanding loan amount in six monthly instalments. He has further submitted that the petitioner

should pay the first instalment on 01.08.2015.

6. The learned counsel for the petitioner has submitted that the petitioner is willing to abide by the scheme of instalments.

7. In the facts and circumstances, essentially based on the concession made by the learned counsel for the second respondent, this Court disposes of the writ petition with a direction to the petitioner to pay the entire outstanding loan in six monthly instalments starting from 01.08.2015. Needless to observe, if any default is committed in repaying the loan amount as per the mutually agreed repayment schedule, the respondent Bank is at liberty to proceed further without reference to this judgment.

The writ petition accordingly stands disposed of.

DAMA SESHADRI NAIDU
JUDGE

DMR/-