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. 2036 OF 2015 (D)

PETITIONER(S):

ABDUL SALAM, S/O.ABOOBACKER,
EDACHERIYIL HOUSE, AMBALLOOR,
KANJIRAMATTOM P.O., PIN -682 315.

BY ADVS.SRI.P.K.ABOOBACKER (EDAPPALLY),
SRI.T.M.VASUDEVAN,
SRI.N.P.AMMU.

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
   GENERAL MANAGER,
   PEOPLE'S URBAN CO-OPERATIVE BANK LTD,
   TRIPUNITHURA, PIN -682 301.

2. THE BRANCH MANAGER,
   PEOPLE'S URBAN CO-OPERATIVE BANK LTD.,
   TRIPUNITHURA, PIN -682 301.

BY ADV. SRI.T.A.RAJAN, 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. 2036 OF 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1 THE TRUE COPY OF THE NOTICE DATED 08-10-2014 ISSUED BY THE BANK TO THE PETITIONER.

EXHIBIT P2 THE TRUE PHOTOCOPY OF THE POSSESSION NOTICE DATED 04-12-2014 UNDER SECTION 13(2) READ WITH RULE 3 OF THE SARFAESI ACT, ISSUED TO THE PETITIONER.

EXHIBIT P3 THE TRUE PHOTOCOPY OF THE SALE NOTICE DATED 02-01-2015 UNDER SECTION 13(2) READ WITH RULE 8(5) (A) OF THE SARFAESI ACT ISSUED TO THE PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.2036 of 2015

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Dated this the 20th day of January, 2015

J U D G M E N T

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.P2 is the possession notice issued by the bank. Ext.P3 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.P.K.Aboobacker, the learned counsel for the petitioner and Sri.T.A.Rajan, 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 Rs.4,16,911/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,16,911/- together with accrued interest in six equal and successive monthly instalments commencing from 20.02.2015, and continues to keep up 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/