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. 2121 of 2015 (M)

PETITIONER :

SOORYA NARAYANAN,
S/O. K.S.NANDAKUMAR, KOKKURI HOUSE,
CHELAKODE P.O., PAZHAYANNUR - 680 587.

BY ADV. SMT.E.V.MOLY

RESPONDENT :

BANK OF INDIA,
CHELAKKARA BRANCH, R.K.TOWERS, MAIN ROAD,
CHELAKKARA, TRICHUR - 680 586,
REPRESNETED BY ITS AUTHORIZED OFFICER.

BY ADV. SRI.JAWAHAR JOSE, SC, BANK OF INDIA

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

sts

WP(C).No. 2121 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - THE TRUE COPY OF THE NOTICE DT. 24.9.14 ISSUED UNDER SECTION 13(2) OF THE SARAESI ACT.

P2 - THE TRUE COPY OF THE POSSESSION NOTICE DT. 18.12.14.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.2121 of 2015

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Dated this the 21st day of January, 2015

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

The petitioner who had availed of a term loan as well as a cash credit facility 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 issued under Section 13(2) of the SARFAESI Act. Ext.P2 is the possession 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.Moly E.V, the learned counsel for the petitioner and Sri.Jawahar Jose, 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 under the term loan is stated to be Rs.20,000/- and the total outstanding amount under the cash credit facility is stated to be Rs.2,70,892/-. Accordingly, if the petitioner pays the total amount of Rs.2,90,892/- in six equal and successive monthly instalments commencing from 15.02.2015, and continues to keep up the instalment payments as per the original schedule of the term loan, 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

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