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. 2122 of 2015 (M)

PETITIONER :

P.MADHAVAN, AGED 57 YEARS,
S/O.AMBU MANIYANI, ANAKKALLU,
SANKARAMPADY P.O., KASARAGOD DISTRICT.

BY ADVS.SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE

RESPONDENTS :

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1. KASARAGOD DISTRICT CO-OP. BANK LTD.,
HEAD OFFICE, P.B NO. 48, NAYAK'S ROAD
KASARAGOD, KERALA - 671 121.

2. AUTHORISED OFFICER, SARFAESI ACT
KASARAGOD DISTRICT CO-OPERATIVE BANK LTD
KASARAGOD P.O., KASARAGOD DISTRICT - 671 121.

R1 & R2 BY ADV. SRI.JAWAHAR JOSE, SC,

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

bp

WP(C).No. 2122 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: PHOTOSTAT COPY OF THE NOTICE BEARING NO. SARFAESI/315/2014-15 DT. 02.1.15.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2122 OF 2015 (M)

Dated this the 21st 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.P1 is the possession notice issued to the petitioner under the SARFAESI Act. 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.Aneesh Joseph, the learned counsel appearing for the petitioner as also Sri.Jawahar Jose, the learned Standing counsel appearing for the respondent Bank.

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 installments. Taking into account the plea of financial hardship raised by the petitioner, I dispose the writ petition with the following directions:-

(i) The total amount outstanding from the petitioner to the respondent bank, in respect of the loan agreement is stated to be Rs.3,06,053/- together with accrued interest. Accordingly, if the petitioner remits the above amount of Rs.3,06,053/- together with accrued interest in twelve equal and successive monthly installments commencing from 15.2.2015, then the recovery steps initiated against him 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 installments, 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

prp