IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No.2451 of 2015 (F)

PETITIONER:

SURESH KUMAR.R,S/O.RAMACHANDRAN PILLAI,
MADATHILVADAKKETHIL,MALIBHAGOM,
CHAVARA SOUTH P.O., KOLLAM.

BY ADV. SRI.B.MOHANLAL

RESPONDENT:

THE AUTHORIZED OFFICER,
H.D.F.C BANK LIMITED,H.D.F.C. HOUSE,P.B.NO.2288,
VAZHUTHACAUD,THIRUVANANTHAPURAMPIN,PIN-695 014.

BY SRI.K.K.CHANDRAN PILLAI (SENIOR ADVOCATE.)
SMT.S.AMBILY,S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.2451 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P-1: THE TRUE COPY OF THE NOTICE DATED 14.8.2014 ISSUED BY THE RESPONDENT UNDER SECTION 13(2) OF THE SARFAESI ACT TO THE PETITIONER.

EXT.P-2: THE TRUE COPY OF THE ORDER DATED 9.12.2014 IN C.M.P NO.9870/2014 OF THE CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM.

EXT.P-3: THE TRUE COPY OF THE NOTICE DATED 8.1.2015 ISSUED BY THE ADVOCATE COMMISSIONER SRI.K.G.ALEXANDER TO THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S.TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 2451 of 2015 (F)

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Dated this the 19th day of February, 2015

JUDGMENT

The petitioner, who had availed of a housing loan from the respondent Bank in the year 2006, defaulted in re-payment 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', against the petitioner. Ext.P1 is the notice issued under Section 13(2) of SARFAESI Act to the petitioner in that regard. Ext.P3 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate Court, Kollam to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. Heard Sri.B.Mohan Lal, the learned counsel appearing for the petitioner and Smt.S.Ambily, learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total overdue amount 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 overdue amount due to the respondent Bank under the loan agreement is stated to be Rs.82,490/- together with accrued interest. Accordingly, if the petitioner remits the overdue amount of Rs.82,490/- together with accrued interest in two equal and successive monthly installments commencing from 16.03.2015, and continues to pay the regular monthly installments as per the original loan schedule, 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 benefits 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/19/02/