IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 2545 of 2015 (P)

PETITIONER(S):

SAJI DANIEL, AGED 42 YEARS
S/O DANIEL, EATTIVILAYIL HOUSE, KODUMON EAST P.O.
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENT(S):
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1. **THE MANAGER**
   STATE BANK OF TRAVANCORE, KODUMON BRANCH
   PATHANAMTHITTA DISTRICT-689645.

2. **THE AUTHORIZED OFFICER**
   (CHIEF MANAGER), STATE BANK OF TRAVANCORE
   ZONAL OFFICE, REGION-IV, KOTTAYAM DISTRICT-686001.

3. **P.HARIHARAN NAIR**
   ADVOCATE COMMISSIONER, OFFICE NEAR COLLECTORATE
   PATHANAMTHITTA-689645.

R1-R2 BY ADV. SRI.R.S.KALKURA, SC, SBT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 2545 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE STATEMENT OF ACCOUNT FURNISHED BY THE IST RESPONDENT BANK BANK FOR THE HOUSING LOAN FOR THE PERIOD FROM 1.12.2013 TO 29.9.2014.

EXHIBIT P2: TRUE COPY OF THE STATEMENT OF ACCOUNT FURNISHED BY THE IST RESPONDENT BANK FOR THE TERM LOAN FOR THE PERIODE FROM 14.11.2013 TO 29.9.2014.

EXHIBIT P3: TRUE COPY OF THE EARLIER NOTICE DATED 29.1.2014.

RESPONDENT(S)' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2545 OF 2015 (P)

Dated this the 9th day of February, 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.P3 is the notice issued by the Advocate commissioner 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. I have heard Sri.Vinoy Varghese Kallummoottil, the learned counsel appearing on behalf of the petitioner as also Sri.R.S.Kalkura, the learned Standing counsel appearing on behalf of the respondents, who would vehemently oppose the grant of installments to enable the petitioner to regularise the loan account.

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 overdue amount in respect of the loan, the term of which is to expire by December, 2016, is stated to be Rs.10,00,000/- together with accrued interest. Accordingly, if the petitioner effects payment of the said amount of Rs.10,00,000/- together with accrued interest in six equal and successive monthly installments commencing from 1.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.
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> (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