IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 2791 of 2015 (Y)

PETITIONER :

RAJESH, AGED 35 YEARS,
S/O VARGHESE, CHRIST BHAVAN, EDAMALA
KARIPOOR P.O., NEDUMANGAD, THIRUVANANTHAPURAM

BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.P.BAJI RAVEENDRAN

RESPONDENTS :
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1. THE NEDUMANGADU CO-OP.URBAN BANK LTD.NO.3193
   REPRESENTED BY ITS MANAGER NEDUMANGADU P.O.,
   THIRUVANANTHAPURAM PIN-695541

2. THE AUTHORIZED OFFICER, APPOINTED OFFICER,
   APPOINTED UNDER THE PROVISIONS OF THE SEURITIZATION AND
   RECONSTRUCTION OF FINANCIAL ASSETS ENFORCEMNET
   OF SECURITY INTEREST ACT 2002 NEDUMANGAD URBAN
   CO-OPERATIVE BANK OFFICE, EDUMANGADU,
   THIRUVANANTHAPURAM, PIN-695 541

R1 & R2 BY ADVS. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SMT.R.BINDU
SRI.GENS GEORGE ELAVINAMANNIL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 2791 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **TRUE COPY OF THE RELEVANT PAGE OF PASS BOOK WITH SB/ACCOUT NO. 10303 OF THE PETITIONER.**

EXHIBIT P2: **TRUE COPY OF A NOTICE DATED 22/7/14 ISSUED TO THE ADVOCATE COMMISSIONER IN M.C. 694/14**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.2791 of 2015

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Dated this the 11th day of February, 2015

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

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.P2 is the notice issued by the Advocate Commissioner. It is stated that thereafter the possession of the secured asset was taken over by the respondent bank. 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.T.A.Unnikrishnan, the learned counsel for the petitioner.

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 amount outstanding from the petitioner to the respondent bank, in respect of the loan is stated to be Rs.6,02,050/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.6,02,050/- together with accrued interest in ten equal and successive monthly instalments commencing from 28.02.2015, the further proceedings for recovery 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.

iii. It is further clarified that, on the petitioner paying the third instalment as directed in this judgment, the respondent bank shall handover possession of the secured asset to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/