IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 2905 of 2015 (K)

PETITIONER :

BIJU P., AGED 38 YEARS, S/O.PUSHKARAN,
KOPPARA THEKKATHIL, KALLUMTHAZHAM,
KILIKOLLOOR P.O., KOLLAM-691 004

BY ADV. SRI.THYPARAMBIL THOMAS THOMAS

RESPONDENT :

THE AUTHORISED OFFICER,
THE CENTRAL BANK OF INDIA, KADAPPAKADA, KOLLAM.

R1 BY ADVS. SRI.DEVAN RAMACHANDRAN
SRI.K.M.ANEESH
SRI.K.SANTHOSH KUMAR (KALIYANAM)
SRI.ADARSH KUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 2905 of 2015 (K)

<u>APPENDIX</u>

PETITIONER(S)' EXHIBITS

EXT P1: **TRUE COPY OF NOTICE DATED 15.01.2015 ISSUED BY ADVOCATE COMMISSIONER TO THE PETITIONER AND OTHERS**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.2905 OF 2015

Dated this the 10th day of March, 2015

J U D G M E N T

The petitioner, who had availed of 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 by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, 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. I have heard Sri.Thyparambil Thomas Thomas, the learned counsel appearing on behalf of the petitioner as also Sri.Devan Ramachandran, the learned Standing counsel appearing on behalf of 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 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 is stated to be Rs.11,94,844/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.11,94,844/- together with accrued interest in 10 equal and successive monthly instalments commencing from 25.03.2015, the recovery proceedings initiated against the petitioner 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

mns