IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 2958 of 2015 (T)

PETITIONER(S):

ALEX.P.JOHN, AGED 50 YEARS
S/O JOHN, EBANAZER VILLA, NEDUMKANDAM PO,
IDUKKI DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENT(S):
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1. THE IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
REPRESENTED BY THE GENERAL MANAGER, HEAD OFFICE
IDUKKI COLONY P.O., IDUKKI-685 602.

2. THE AUTHORIZED OFFICER,
UNDER THE SARFAESI ACT
IDUKKI DISTRICT CO-OPERATIVE BANK LTD.
HEAD OFFICE , IDUKKI COLONY PO, IDUKKI-685602.

3. THE BRANCH MANAGER,
IDUKKI DISTRICT CO-OPERATIVE BANK LTD, NEDUMKANDOM
BRANCH, NEDUMKANDOM, IDUKKI- 685602.

BY ADV. SRI.P.C.CHACKO, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 2958 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **TRUE COPY OF THE SECTION 13(2) NOTICE DATED 25.10.2014**

EXT.P2: **TRUE COPY OF THE NOTICE DATED 5.1.2015**

EXT.P3: **TRUE COPY OF REPRESENTATION OF THE PETITIONER DATED 6.1.2015**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S.TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 2958 of 2015 (T)

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Dated this the 30th day of January, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 3rd respondent Bank, 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 the SARFAESI Act to the petitioners in that regard. Ext.P2 is the order passed by the Chief Judicial Magistrates Court, Thodupuzha appointing an 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.Latheesh Sebastian, learned counsel for the petitioner and Sri.P.C.Chacko, learned Standing counsel appearing for the respondents.

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 overdue amount 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 from the petitioner to the respondent Bank is stated to be an amount of Rs.2,42,500/- together with accrued interest and other charges. Accordingly, if the petitioner remits the amount of Rs.2,42,500/- together with accrued interest and other charges on or before 20.02.2015, 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 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/30/01/