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. 2960 of 2015 (T)

PETITIONER :

NAJEEB.A, AGED 42 YEARS,
S/O ABDUL MAJEED, "AM MANZIL",
KONNIYOOR, POOVACHAL,
THIRUVANANTHAPURAM-695 575

BY ADV. SRI.M.R.NANDAKUMAR

RESPONDENT :

THE STATE BANK OF INDIA,
RACPC, L.H.O ANNEXE,
LMS COMPOUND, THIRUVANANTHAPURAM- 695 001
REP. BY ITS AUTHORIZED OFFICER.

BY SRI.S.EASWARAN,SC

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

sts

WP(C).No. 2960 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **TRUE COPY OF THE NOTICE UNDER SECTION 13(2) SARFAESI ACT DATED 8.7.2014**

EXHIBITP2: **TRUE COPY OF THE NOTICE OF THE ADVOCATE COMMISSIONER DATED 6.1.2015**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 2960 of 2015 (T)

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Dated this the 30th day of January, 2015

JUDGMENT

The petitioner, who had availed of a housing loan from the 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 petitioner in that regard. Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Thiruvananthapuram, 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.M.R.Nandakumar, learned counsel appearing for the petitioner and Sri.S.Eswaran, learned Standing counsel appearing for the respondent.

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 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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.1,62,000/- together with accrued interest and other charges. Accordingly, if the petitioner effects payment of Rs.1,62,000/- together with accrued interest and other charges, in ten equal and successive monthly installments commencing from 20.02.2015, then, the recovery steps initiated against him pursuant to Ext.P2 notice 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 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/