IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936`

WP(C).No. 3384 of 2015 (W)

PETITIONER(S):

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1. SUKUMARAN, S/O.BHASKARAN, AGED 60 YEARS, KOZHIPARAMBIL HOUSE, AANAPUZHA DESOM, METHALA VILLAGE, KODUNGALLUR TALUK, THRISSUR DISTRICT.

2. GIRIJA, W/O.SUKUMARAN, AGED 55 YEARS, KOZHIPARAMBIL HOUSE, AANAPUZHA DESOM, METHALA VILLAGE, KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADV. SMT.M.R.REENA.

RESPONDENT(S):

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1. THE BRANCH MANAGER, THRISSUR DT. CO-OPERATIVE BANK LTD., KODUNGALLUR BRANCH, KODUNGALLUR, THRISSUR DISTRICT-680 022.

2. THE AUTHORIZED OFFICER, THE THRISSUR DT. CO-OPERATIVE BANK LTD., HEAD OFFICE, SAHAKARANA SAPTHADHI MANDIRAM, TUDA ROAD, KOVILAKATHUPADAM, THIRUVAMBADY P.O, THRISSUR-680 022.

BY ADV. SRI.C.A.MAJEED, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 3384 of 2015 (W)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - THE TRUE COPY OF THE PASSBOOK OF THE PETITIONER.

EXT.P2 - POSSESSION NOTICE ISSUED BY THE RESPONDENTS DATED 20-01-2015.

EXT.P3 - TRUE COPY OF REPRESENTATION GIVEN TO THE BRANCH MANAGER DATED 26-01-2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.3384 of 2015

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Dated this the 3rd 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 possession notice issued by the respondents 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.P.S.Sujeth, the learned counsel for the petitioner and Sri.C.A.Majeed, the learned Standing Counsel appearing on behalf of the respondents.

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 overdue amount from the petitioner to the respondent bank, in respect of the loan is stated to be Rs.5,85,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,85,000/- together with accrued interest in six equal and successive monthly instalments commencing from 20.02.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/