IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 3558 of 2015 (T)

PETITIONER :

ABDUL NAZAR, AGED 43 YEARS,
S/O. SAID ALAVI RAUTHER, ODAKUTTY HOUSE,
KRISHNAGIRI P.O., MEENANGADI,
WAYANAD DISTRICT - 673 591.

BY ADV. SRI.A.V.JAMES

RESPONDENT(S):

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1. INDIAN OVERSEAS BANK,
   SULTHAN BATHERY BRANCH, SULTHAN BATHERY POST,
   WAYANAD DT - 673 592.

2. THE AUTHORISED OFFICER,
   INDIAN OVERSEAS BANK, SULTHAN BATHERY BRANCH,
   SULTHAN BATHERY POST, WAYANAD DT - 673 592.

R1 & R2 BY ADV. SRI.SUNIL SHANKAR, SC, INDIAN OVERSEAS BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 3558 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE NOTICE DATED 11/12/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXHIBIT-P2- TRUE COPY OF THE REPLY NOTICE DATED 13/01/20115 ISSUED BY THE PETITIONER TO THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.3558 of 2015

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Dated this the 9th day of February, 2015

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

The petitioner who had availed of three housing loans and 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 under Section 13 (2) of the SARFAESI Act. 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.A.V.James, the learned counsel for the petitioner and Sri.Sunil Shanker, 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 housing loan is stated to be Rs.2,04,486/-. Apart from that, the amounts required for regularisation of the cash credit facility is stated to be Rs.50,000/-. Accordingly, if the petitioner pays the amount of Rs.50,000/- on or before 31.03.2015 and pays the remaining amount of Rs.2,04,486/- in six equal and successive monthly instalments commencing from 20.04.2015, and continues to keep up the regular instalment payments as per the original loan schedule pertaining to the housing loan, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.

ii. On payment of the said amount of Rs.50,000/- aforesaid, the petitioner shall also take steps to renew the cash credit facility and jewel loan with the respondent bank.

iii. 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

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