IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 3606 of 2015 (A)
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PETITIONER(S) :

MANOJ P.K, AGED 41 YEARS,
PALAKUNNEL HOUSE, NEDUNGAPARA P.O,
PANCHIYAN-683 545.

BY ADV. SMT.E.V.MOLY

RESPONDENT(S) :
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1. **THE SOUTH INDIAN BANK LTD.,**
   NAVARATNA SQUARE, CHERIYA PALLITHAZHAM, A.M ROAD,
   KOTHAMANGALAM, ERNAKULAM-683 542,
   REPRESENTED BY ITS AUTHORIZED OFFICER.

2. **THE SOUTH INDIAN BANK LTD.,**
   NAVARATNA SQUARE, CHERIYA PALLITHAZHAM, A.M ROAD,
   KOTHAMANGALAM, ERNAKULAM-683 542,
   REPRESENTED BY ITS MANAGER.

BY ADV. SRI.K.K.JOHN, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 3606 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **THE TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY KOLANCHERRY MEDICAL COLLEGE.**

EXHIBIT P2: **THE TRUE COPY OF THE CERTIFICATE DATED 12.02.2014 FOR AVAILING FINANCIAL ASSISTANCE FOR THE TREATMENT ISSUED BY THE HOSPITAL.**

EXHIBIT P3: **THE TRUE COPY OF THE LOAN ACCOUNT STATEMENT ISSUED BY THE RESPONDENT BANK.**

EXHIBIT P4: **THE TRUE COPY OF THE MEDICAL CERTIFICATE DATED 28.11.2014 ISSUED BY SANJO HOSPITAL PERUMBAVOOR.**

EXHIBIT P5: **THE TRUE COPY OF THE NOTICE DATED 17.09.2014 RECEIVED BY THE PETITION ON 03.010.2014.**

EXHIBIT P6: **THE TRUE COPY OF THE POSSESSION NOTICE AFFIXED ON THE SECURED ASSET ON 20.01.2015 AND SAME IS RECEIVED BY THE PETITIONER ON 31.01.2015.**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.3606 of 2015

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Dated this the 4th 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.P5 is the notice under Section 13 (2) of the SARFAESI Act. Ext.P6 is the possession notice. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Smt.Moly E.V, the learned counsel for the petitioner and Sri.K.K.John, 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.35,000/-. Accordingly, if the petitioner pays the aforesaid amount of Rs.35,000/- together with accrued interest by 31.03.2015, 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/