IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 3649 of 2015 (E)

PETITIONER(S):

AJITHKUMAR K.S., AGED 45 YEARS,
S/O.KRISHNAN NAIR, AJITH BHAVANAM, ANIYOOR
CHEMPAZHANTHY P.O., TRIVANDRUM.

BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL

RESPONDENTS:
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1. THE BRANCH MANAGER,
TRIVANDRUM DISTRICT CO-OP. BANK
TRIVANDRUM DISTRICT CO-OPERATIVE BANK
POTHENCODE BRANCH, POTHENCODE.

2. THE AUTHORISED OFFICER,
HEAD OFFICE, TRIVANDRUM DISTRICT CO-OPERATIVE BANK
KIZHAKKEKKOTTA, TRIVANDRUM-23.

BY ADV. SRI.T.R.HARIKUMAR, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 3649 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE NOTICE U/S 13(2) OF SARFACIE ACT.

EXHIBIT P2. COPY OF THE NOTICE U/S 13 (4) OF SARFACIE ACT.

EXHIBIT P3. COPY OF THE RECEIPTS SHOWING REPAYMENTS.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.3649 of 2015

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Dated this the 20th day of March, 2015

J U D G M E N T

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.P1 is the notice issued under Section 13 (2) of the SARFAESI Act. Ext.P2 is the notice issued under Section 13 (4) 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 the learned counsel appearing on behalf of the petitioner as also the learned Standing counsel for the respondent bank.

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 in respect of the loan availed by the petitioner is stated to be Rs.1,36,200/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,36,200/- together with accrued interest in five equal and successive monthly instalments commencing from 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns