IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 3804 of 2015 (A)

PETITIONER :

ASOKAN VASU, AGED 58 YEARS, S/O.VASU,
DIRECTOR, M/S.MANGALATH HOTEL & RESORTS
CHADAYAMANGALAM, KOLLAM

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS :
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1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO
GOVERNMENT TAXATION DEPARTMENT
THIRUVANANTHAPURAM - 695001.

2. STATE BANK OF TRAVANCORE
REPRESENTED BY ITS REGIONAL MANAGER,
THIRUVANANTHAPURAM - 695001.

3. THE AUTHORIZED OFFICER & CHIEF MANAGER,
STATE BANK OF TRAVANCORE, VARKALA BRANCH,
VARKALA - 695141

4. THE COMMERCIAL TAX OFFICER,
COMMERCIAL TAXES, ATTINGAL - 695101

R1 BY SENIOR GOVERNMENT PLEADER SMT.. SOBHA ANNAMMA EAPPEN
R2 BY ADV. SRI.SATHISH NINAN
BY SRI.JAWAHAR JOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

bp

WP(C).No. 3804 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1: TRUE COPY OF THE LETTER NO.12- HRACC(02)/2014 DATED 16/01/2014 ISSUED BY THE MINISTRY OF TROURISM TO THE PETITIONER.

P2: TRUE COPY OF THE CERTIFICATE OF PERMISSION NO.B21-3392/13 DATED 28.1.2014 ISSUED BY THE SECRETARY OF CHADAYAMANGALAM GRAMA PANCHAYAT.

P3: TRUE COPY OF THE LETTER NO. 5/TH-1(14)/2012 DATED 3.8.12 ISSUED BY THE MINISTRY OF TOURISM TO THE PETITIONER.

P4: TRUE COPY OF THE ORDER DATED 27.10.2013 PASSED BY THIS HONOURABLE COURT IN RP.NO.834/13 IN WP(C) NO.22682/2012.

P5: TRUE COPY OF THE NOTICE DATED 6.5.2013 OF THE CIRCLE INSPECTOR OF EXCISE, KOTTARAKKARA.

P6: TRUE COPY OF THE LETTER NO.A1-1352/14 DATED 8.1.2015 ISSUED BY COMMERCIAL TAX OFFICER, ATTINGAL TOT HE PETITIONER.

P7: TRUE COY OF THE LETTER NO.A1-1124/14 DATED 24/11/2015 ISSUED BY COMMERCIAL TAX OFFICER, ATTINGAL TOT HE PETITIONER.

P8: TRUE COPY OF THE ORDER DATED 18.3.14 PASSED BY THE KERALA SALES TAX APPELLATE TRIBUNAL IN T.A.NO.32/11.

P9: TRUE COPY OF THE ORDER DATED 18.3.14 PASSED BY THE KERALA SALES TAX APPELLATE TRIBUNAL IN T.A.NO.332/11

P10: TRUE COPY OF THE PETITION DATED 10.12.2014 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT

P11: TRUE COPY OF THE NOTICE DATED 31.1.2015 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.3804 OF 2015 (A)

Dated this the 10th day of February, 2015

J U D G M E N T

The petitioner, who had availed of a loan from the 2nd 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.P11 is the possession notice issued by the 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.T.M.Abdul Latif, the learned counsel appearing for the petitioner as also Sri.Sathish Ninan, the learned Standing counsel appearing 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 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.41,00,000/- together with accrued interest. Accordingly, if the petitioner pays the above amount together with accrued interest in ten equal and successive monthly installments commencing from 1.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against him 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 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.

(iii) The disposal of the writ petition will be without prejudice to the rights of the petitioner to agitate the claim with regard to refund of amounts due to him from the Sales Tax Department, in seperate proceedings.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp