IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 4431 of 2015 (D)

PETITIONER(S):

B. MEENAKSHIKUTTYAMMA, AGED 71 YEARS
KODUVELIL MADOM, KURUPPAMKUALNGARA P.O
CHERTHALA ALAPPUZHA DISTRICT.

BY ADV. SRI.SUNIL V.MOHAMMED

RESPONDENT(S):

THE AUTHORISED OFFICER
BANK OF BARODA, CHERTHALA BRANCH
NEAR IRON BRIDGE CHERTHALA,
ALAPPUZHA - 688 524.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 4431 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - **THE TRUE COPY OF THE NOTICE DATED 07-11-2013 ISSUED BY THE RESPONDENT**

EXT.P2 - **THE TRUE COPY OF THE AGREEMENT FOR SALE DATED 10-02-2015 EXECUTED BY THE PETITIONER'S SON-IN-LAW.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.4431 OF 2015 (D)

Dated this the 25th day of February, 2015

J U D G M E N T

The petitioner, stood guarantor to a term loan and a cash credit facility availed by her daughter, from the respondent bank,. When her daughter defaulted in repayment of the loan amount, 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. She is aggrieved by the steps taken by the respondent bank for recovery of the defaulted amounts from her. Ext.P1 is the possession notice issued to the petitioner under 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.Sunil V. Mohammed, the learned counsel appearing for the petitioner.

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 her 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 amount outstanding, from the petitioner and her daughter, to the respondent bank, is stated to be Rs.19,31,000/-. Accordingly, if the petitioner pays the aforesaid amount of Rs.19,31,000/- in ten equal and successive monthly installments commencing from 10.3.2015, then the recovery steps initiated against her by the respondent bank shall be kept in abeyance.
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> (ii) It is made clear that if the petitioner commits a default in respect of any of the installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp