IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 4526 of 2015 (M)

PETITIONER(S):

SHEEJA V.V.,
AGED 35 YEARS,
D/O.VISWAMBHARAN, T.C.NO.64/1147,
MARUHANKODE VEEDU,
VALLATHOTTAM, KARUMAM P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.P.G.PRAMOD
SRI.N.KRISHNA PRASAD.

RESPONDENT(S):

KARAMANA CO-OPERATIVE URBAN BANK LTD.NO.1761,
KARAMANA P.O.,
THIRUVANANTHAPURAM DISTRICT,
PIN - 695 002,
RPRESENTED BY ITS AUTHORIZED OFFICER.

BY ADV. SRI.R.S.KALKURA
BY ADV. SRI.M.S.KALESH
BY ADV. SRI.HARISH GOPINATH
BY ADV. SRI.GENS GEORGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT-P1: TRUE COPY OF THE DEMAND NOTICE DATED 17/2/2014 ISSUED BY THE BANK TO THE PETITIONER.

EXHIBIT-P2: TRUE COPY FO THE RECEIPT DATED 24/2/2014 EVIDENCING THE PAYMENT OF RS.38,500/- TO THE RESPONDENT BANK.

EXHIBIT-P3: TRUE COPY OF THE NOTICE DATED 18.2.2014 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.4526 of 2015

....

Dated this the 2nd 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.P3 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Thirivananthapuram to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. 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.P.G.Pramod, the learned counsel appearing on behalf of the petitioner as also Sri.R.S.Kalkura, 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 from the petitioner to the respondent bank, in respect of the loan is stated to be Rs.1,50,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,50,000/- together with accrued interest in seven equal and successive monthly instalments commencing from 16.03.2015, and continues to keep up 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