IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 4539 of 2015 (N)

PETITIONER(S):

SHIJIN R., AGED 27 YEARS,
S/O.JALAUDEEN, J.R.VILLA, PAKALKURY P.O.,
PALLICKAL, THIRUVANANTHAPURAM.

BY ADVS.SRI.K.SIJU
SMT.S.SEETHA

RESPONDENT(S):
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1. THE BRANCH MANAGER, THIRUVANANTHAPURAM
DISTRICT CO-OPERATIVE BANK,
PALLICKAL BRANCH, PALLICKAL P.O.,
THRIUVANANTHAPURAM - 695 604.

2. THE AUTHORISED OFFICER,
THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
HEAD OFFICE, FORT P.O., THIRUVANATHAPURAM - 695 023.

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

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 4539 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1:THE COPY OF NOTICE DATED 16.12.2014 ISSUED UNDER 13(4) OF SARFAESI ACT.

EXT. P2:THE COPY OF CIRCULAR NO.5/2015 DATED 22.01.2015 ISSUED BY THE REGISTRAR OF CO-OPERATIVE SOCIETIES

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.4539 of 2015

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Dated this the 18th 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 (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.3,35,300/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,35,300/- together with accrued interest in six equal and successive monthly instalments commencing from 30.03.2015 and continues to keep up the regular instalments as per the original loan schedule, then further proceedings for recovery shall be kept in abeyance.

(ii) It will be open to the petitioner to approach the respondent bank for claiming the benefit of Ext.P2 circular on or before 31.03.2015 with an appropriate representation. If the respondent bank considers the case of the petitioner and extends any benefit to the petitioner, then the liability statement of the peittioner in respect of the loan amounts shall be reworked accordingly and petitioner intimated of the same.

(iii) 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