IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 4562 of 2015 (U)

PETITIONER(S):

MATHEW THOMAS,
AGED 41 YEARS,
KUZHIYAMKALA, ETTUMANOOR, PEROOR
KOTTAYAM-686 016

BY ADV. SMT.E.V.MOLY

RESPONDENT(S):

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1. HDFC BANK LIMITED,
   KOTTAYAM BRANCH, PIN - 686 016,
   REPRESENTED BY ITS MANAGER.

2. HDFC BANK LIMITED,
   SL PLAZA, PALARIVATTOM,
   COCHIN-682 025,
   REPRESENTED BY ITS AUTHORIZED OFFICER.

BY SRI.T.RAJESH, SC, HDFC BANK LTD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1 - TRUE COPY OF POSSESSION NOTICE DATED 17-12-14.

EXT.P2 - THE TRUE COPY OF THE NOTICE DATED 13-01-2015 ISSUED UNDERE SARFAESI ACT

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.4562 of 2015

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Dated this the 5th 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 copy of the possession notice issued to the petitioner by the respondent to take possession of the secured assets. Ext.P2 is the sale notice issued under the SARFAESI Act. It is submitted that pursuant to Ext.P1, the possession of the secured assets namely the vehicle was also been taken over by the respondent 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 Smt.Moly E.V., the learned counsel for the petitioner and Sri.T.Rajesh, the learned Standing Counsel appearing on behalf of 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 outstanding amount from the petitioner to the respondent bank, in respect of the loan, is stated to be Rs.15,61,089/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.15,61,089/- in ten equal and successive monthly instalments commencing from 20.03.2015, the recovery steps initiated against the petitioner by the respondent Bank shall be kept in abeyance.
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> (ii) It is made clear that the respondent bank then retain possession of the secured assets till such time the petitioner clears the outstanding liability as directed in this judgment.
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> (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