IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

WP(C).No. 4575 of 2015 (V)

PETITIONER:

SUNNY JOSEPH, AGED 52 YEARS,
S/O.JOSEPH, PETTAYIL HOUSE,
ELAMBERAM, PALLIVAYAL P.O.,
KARIMBAM, KANNUR.

BY ADVS.SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER,
HOUSING DEVELOPMENT FINANCE CORPORATION,
HDFC HOUSE, P.B.NO.1667,
RAVIPURAM JUNCTION, M.G.ROAD,
KOCHI-682015.

2. REGIONAL MANAGER,
HOUSING DEVELOPMENT FINANCE CORPORATION,
HDFC HOUSE, P.B.NO.1667, RAVIPURAM JUNCTION,
M.G.ROAD, KOCHI-682015.

BY SRI.K.K.CHANDRAN PILLAI (SENIOR ADVOCATE)
BY SMT.S.AMBILY, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 4575 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT-P1: **THE TRUE COPY OF THE NOTICE DATED 24.11.14 ISSUED BY THE 2ND RESPONDENT.**

EXHIBIT-P2: **THE TRUE COPY OF THE NOTICE DATED 20/10/14 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.4575 of 2015

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Dated this the 12th day of February, 2015

JUDGMENT

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. Exts.P1 and P2 are the notices issued to the petitioner on behalf of 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 Sri.Sunil Nair Palakkat, the learned counsel for the petitioner and Smt.Ambiliy.S, the learned Standing Counsel appearing on behalf of the respondents.

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.4,35,644/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,35,644/- together with accrued interest in four equal succesive monthly instalments commencing from 01.03.2015, and continues to keep up the 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/