IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 4917 of 2015 (L)

PETITIONER(S):

C.A.ABBAS, AGED 36 YEARS,
S/O.C.E.ALIKUNJU, PROPRIETOR,
M/S.IDEAL ENTERPRISES, DOOR NO.50/1908 B,
MELOTHAPARAMBIL, NORTH KUNNUMPURAM,
EDAPPALLY P.O., PIN -682 024, RESIDING AT
CHERODATH HOUSE, KUTTAMASSERY,
THOTTUMUGHAM P.O., ALUVA, PIN- 683 105.

BY ADV. SRI.V.N.SUNIL KUMAR.

RESPONDENT(S):

THE AUTHORIZED OFFICER,
THE FEDERAL BANK LTD., ALUVA RSS BRANCH,
CSI DIAMOND ARCADE, PUMP JUNCTION,
ALUVA, PIN- 683 101.

BY ADVS. SRI.A.ANTONY, SC,
SMT.LEELAMMA ANTONY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 4917 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1: TRUE COPY OF THE CRIMINAL M.P.NO.1521/2014 DATED 04.04.2014 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

EXHIBIT-P2: TRUE COPY OF ORDER PASSED IN CRIMINAL M.P.NO.1521/2014 DATED 07.04.2014 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

EXHIBIT-P3: TRUE COPY OF THE DEMAND PLACED BY THE ADVOCATE COMMISSIONER IN COMPLIANCE OF THE ORDER OF CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM DATED 19.06.2014.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.4917 of 2015

....

Dated this the 19th day of February, 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.P2 is the order passed by the Chief Judicial Magistrate Court, Ernakulam. Ext.P3 is the notice issued by the Advocate Commissioner pursuant to the direction of the Chief Judicial Magistrate Court, Ernakulam. 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.V.N.Sunil Kumar, the learned counsel for the petitioner and Sri.A.Antony, the learned Standing Counsel appearing on behalf of the respondent.

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 amount outstanding from the petitioner to the respondent bank, in respect of the loan is stated to be Rs.48,60,766/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.48,60,766/-, together with accrued interest, in 12 equal and successive monthly instalments commencing from 10.03.2015, 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/