IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 4948 of 2015 (P)
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PETITIONER :
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RADHAKRISHNAN.O.N, AGED 60 YEARS,
S/O. LAXMANAN PILLAI, ONATTU, SAROVARAM,
KUTTAPUZHA, THIRUVALLA.

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENTS :
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1. PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK LTD.
NO. 4365, REPRESENTED BY GENERAL MANAGER,
HEAD OFFICE, PATHANAMTHITTA - 689 645.

2. THE MANAGER,
THE PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK,
LIMITED NO. 4365 THIRUVALLA BRANCH, THIRUVALLA - 689 101.

3. THE AUTHORISED OFFICER/EXECUTIVE OFFICER,
THE PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK
LIMITED NO. 4365, THIRUVALLA - 689 101.

4. MIDHUN RADHAKRISHNAN,
S/O.RADHAKRISHNAN, ONATTU SAROVARAM,
KUTTAPUZHA, THIRUVALLA - 689 103.

R1 TO R3 BY ADV. SRI.V.PHILIP MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

**WP(C).No. 4948 of 2015 (P)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**
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**EXHIBIT-P1:** **TRUE COPY OF THE NOTICE DATED 10/09/2014.**

**EXHIBIT-P2:** **TRUE COPY OF THE POSSESSION NOTICE PUBLISHED IN MALAYALA MANORAMA DAILY DATED 10/02/2015.**

**EXHIBIT-P3:** **TRUE COPY OF THE REQUEST DATED 06/02/2015.**

**RESPONDENT(S)' EXHIBITS : NIL.**
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**//TRUE COPY//**

**P.A. TO JUDGE**

**bp**

**A.K.JAYASANKARAN NAMBIAR, J.**

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**W.P.(C) No. 4948 of 2015 (P)**

**..........................................**

Dated this the 20th day of February, 2015

**JUDGMENT**

The petitioner, who had availed of a loan from the 2nd respondent Bank, defaulted in re-payment 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', against the petitioner. Ext.P1 is the notice issued under Section 13(2) of the SARFAESI Act and Ext.P2 is the possession notice issued to the petitioner in that regard. 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.R.Santhosh Babu, learned counsel for the petitioner and Sri.V. Philip Mathew, learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the total overdue amount to the bank in easy installments. 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 from the petitioner to the respondent Bank is stated to be Rs.5,54,800/- together with accrued interest. Accordingly, if the petitioner remits the amount of Rs.5,54,800/- together with accrued interest in six equal and successive monthly installments commencing from 10.03.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him 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.

Sd/-
**A.K.JAYASANKARAN NAMBIAR**
**JUDGE**

AMV/20/02/