IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 5035 of 2015 (D)

PETITIONER :

HALEEM A.S., AGED 45 YEARS,
S/O.ABDUL SAMAD, KUNNUM PARAMBIL HOUSE,
ALATHUR P.O., PALAKKAD DISTRICT

BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA

RESPONDENTS :
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1. THE PALAKKAD DISTRICT CO-OPERATIVE BANK
REPRESENTED BY ITS GENERAL MANAGER, HEAD OFFICE
P.B NO 21, H.P.O ROAD, PALAKKAD 678 001

2. THE AUTHORIZED OFFICER(THE GENERAL MANAGER)
THE PALAKKAD DISTRICT CO-OPERATIVE BANK,
HEAD OFFICE, P.B NO 21, H.P.O ROAD,
PALAKKAD 678 001

3. THE MANAGER
THE PALAKKAD DISTRICT CO-OPERATIVE BANK,
ALATHUR BRANCH, MAIN ROAD, ALATHUR

R1 TO R3 BY ADV. SRI.M.SASINDRAN, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 5035 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE NOTICE ISSUED BY THE THIRD RESPONDENT DATED 13-11-2013.

EXHIBIT P2: TRUE COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT DATED 06-11-2014.

EXHIBIT P3: TRUE COPY OF THE NOTICE ISUED BY THE SECOND RESPONDENT UNDER RULE 8(1) OF THE SECURITY INTEREST (ENFORCEMENT) RULES,2002.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5035 of 2015

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Dated this the 8th day of April, 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.P3 is the notice issued by the 2nd respondent under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. 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 both the loans availed by the petitioner is stated to be Rs.1,68,260/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,68,260/- together with accrued interest in six equal and successive monthly instalments commencing from 30.04.2015, and continues to keep up 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns