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. 5068 of 2015 (G)

PETITIONER :

L.GRACY, AGED 37 YEARS,
W/O. I.LAZAR, HOUSE NO. 35, ST. XAVIER NAGAR,
THAMARAKULAM, KOLLAM

BY ADV. SRI.BIJU .C. ABRAHAM

RESPONDENTS :
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1. AUTHORIZED OFFICER,
STATE BANK OF MYSORE , KOLLAM BRANCH, 1 FLOOR,
PGR BUILDING, PAIKKADA ROAD, KOLLAM 691 001

2. STATE BANK OF MYSORE
KOLLAM BRANCH, 1 FLOOR, PGR BUILDING, PAIKKADA ROAD,
KOLLAM 691 001 REPRESENTED BY ITS BRANCH MANAGER

BY ADV. SRI.LAL GEORGE, SC, STATE BANK OF MYSORE

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. 5068 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE PASSBOOK IN APML LOAN ACCOUNT NO. 6408198209

EXHIBIT P1(a): TRUE COPY OF THE PASSBOOK IN HOUSING LOAN A/C NO.64082925117.

EXHIBIT P2: TRUE COPY OF THE DEMAND NOTICE ISSUED TO THE PETITIONER DATED 20.8.2014.

EXHIBIT P3: TRUE COPY OF THE TENDER CUM AUCTION SALE NOTICE DATED 14.1.2015 ISSUED BY THE RESPONDENTS

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.5068 of 2015 (G)

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Dated this the 20th day of February, 2015

JUDGMENT

The petitioner, who had availed of two loans 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.P2 is the demand notice and Ext.P3 is the sale notice issued under Section 13(2) of the SARFAESI Act to the petitioners 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.Biju C.Abraham, learned counsel for the petitioner and Sri.Lal George, 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.99,872/- together with accrued interest. Accordingly, if the petitioner remits the amount of Rs.99,872/- together with accrued interest on or before 20.03.2015, 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/