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. 5141 of 2015 (P)

PETITIONER(S):

P.MOHAMMED, AGED 63 YEARS,
S/O.MAMMED, PARAPPURATH HOUSE, PAZHOOR P.O.,
KUTTIPURAM (VIA), KUTTIPURAM POLICE STATION LIMIT,
MALAPPURAM DISTRICT.

BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH

RESPONDENT(S):

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1. THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
HEAD OFFICE, UP HILL,
REPRESENTED BY ITS GENERAL MANAGER, MALAPPURAM,
PIN CODE: 676 505.

2. AUTHORIZED OFFICER,
UNDER SARFEAESI ACT,
THE MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
MALAPPURAM, PIN CODE: 676 505.

BY ADV. SRI.E.S.M.KABEER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 5141 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: THE TRUE COPY OF THE NOTICE OF THE ADVOCATE COMMISSIONER NOTICE DATED 5.1.2015.

EXHIBIT-P2: THE TRUE COPY OF THE CMP NO.4101/2014 FILED BY THE RESPONDENTS U/S.14(1) OF THE SARFAESI ACT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.5141 of 2015

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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.P1 is the Advocate Commissioner's notice. 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.Prem Navaz J.R, the learned counsel for the petitioner and Sri.E.S.M.Kabeer, 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 in respect of the loan availed by the petitioner is stated to be Rs.4,40,167/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.4,40,167/-, together with accrued interest, in eight equal and successive monthly instalments commencing from 02.03.2015, 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/