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. 5160 of 2015 (T)

PETITIONER :

C.S.JOHN, AGED 40 YEARS,
S/O.SOOSAYYA FERNANDO, JAYA COTTAGE,
MULLAKKAL WARD, ALAPPUZHA.

BY ADVS.SMT.GISA SUSAN THOMAS
SMT. N.LEELAMANI
SMT.NEENU.P.KUMAR
SMT.K.S.SHALEEJA
SRI.G.SIJI

RESPONDENTS :
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1. KERALA STATE CO-OPERATIVE BANK LTD.
   ALAPPUZHA BRANCH, REP.BY ITS MANAGER.

2. THE AUTHORISED OFFICER,
   KERALA STATE CO-OPERATIVE BANK LTD., REGIONAL OFFICE,
   ANANDHI BUILDING, PULLEPADY JUNCTION, CHITTOOR ROAD,
   ERNAKULAM, KOCH-682035.

BY SRI.GEORGE POONTHOTTAM, SC,

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. 5160 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: **TRUE COPY PASSBOOK AND TRUE EXTRACT OF THE ACCOUNT DETAILS.**

EXHIBIT-P2: **THE TRUE COPY OF THE LETTER DATED 09/01/2015.**

EXHIBIT-P3: **THE TRUE COPY OF THE AUCTION SALE NOTICE DATED 04/02/2015 ISSUED BY THE 2ND RESPONDENT.**

EXHIBIT-P4: **THE TRUE COPY OF THE NOTICE PUBLISHED IN MATHRUBHUMI DAILY DATED 04/02/2015.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5160 of 2015

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Dated this the 20th 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.P3 is the auction sale notice issued by the 2nd respondent. 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.Gisa Susan, the learned counsel for the petitioner and Sri.George Poonthottam, the learned Standing Counsel appearing on behalf of 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 the loan availed by the petitioner is stated to be Rs.2,68,662/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,68,662/-, together with accrued interest, in seven equal and successive monthly instalments commencing from 05.03.2015, 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/