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. 5196 of 2015 (Y)

PETITIONER(S):

MISS. JASMINE GEORGE KALLARACKAL,
VALLIKKAD HOUSE, PUTHENPURACKAL,
KALATHU WARD, AVALOOKUNNU P.O.,
ALAPPUZHA DISTRICT, PIN - 689 006.

BY ADV. SRI.K.C.SUDHEER

RESPONDENT(S):
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1. **BANK OF INDIA,**
   ALAPPUZHA BRANCH, IRON BRIDGE,
   MULLACKAL, ALAPPUZHA, PIN - 689 001.

2. **AUTHORISED OFFICER,**
   BANK OF INDIA, BRANCH OFFICE AT IRON BRIDGE,
   MULLACKAL, ALAPPUZHA, PIN - 689 001.

BY ADV. SRI.JAWAHAR JOSE, SC

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. 5196 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT. P1: TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED FROM THE LISSIE HOSPITAL.

EXT. P2: TRUE COPY OF THE CERTIFICATE ISSUED FROM THE MSGR. JOSEPH KANDATHIL MEMORIAL CANCER RESEARCH CENTRE, CHERTHALA.

EXT. P3: TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.5196 of 2015

....

Dated this the 19th day of February, 2015

<u>J U D G M E N T</u>

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 Advocate Commissioner 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.Sudheer K.C, the learned counsel for the petitioner and Sri.Jawahar Jose, 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.2,35,868/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,35,868/- together with accrued interest in six 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/