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. 5230 of 2015 (C)

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PETITIONER:

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LATHA PRASAD, W/O.D.PRASAD,
AGED 44 YEARS, BHAKTHIVILAS HOUSE,
RAMAPURAM.P.O., AND VILLAGE,
MEENACHIL TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.P.C.HARIDAS

RESPONDENT(S):

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1 STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO THE DEPARTMENT
OF CO-OPERATION, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

2. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
KOTTAYAM,
REPRESENTED BY ITS GENERAL MANAGER - 86 001.

3. THE AUTHORISED OFFICER (UNDER SARFAESI ACT),
THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD.,
KOTTAYAM - 686 001.

4. THE BRANCH MANAGER,
THE KOTTAYAM DISTRICT CO-OPERATIVE BANK,
RAMAPURAM BRANCH, RAMAPURAM - 686 001.

R1 BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA
R2 TO -R4 BY SRI.SUNIL CYRIAC,SC

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

mbr/

**WP(C).No. 5230 of 2015 (C)**
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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**
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**EXT.P1 -** **TRUE COPIES OF THE NOTICE DATED 14.7.2014 ISSUED BY THE 3RD RESPONDENT U/S.13(2) OF THE SARFAESI ACT.**

**EXT.P2 -** **TRUE COPY OF THE NOTICE DATED 11-2-2015.**

**EXT.P3 -** **TRUE COPY OF THE REPRESENTATION DATED 16-2-2015 OF THE PETITIONER.**

**RESPONDENT(S)' EXHIBITS: - NIL**
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**/TRUE COPY/**

**P.S. TO JUDGE**

**mbr/**

**A.K.JAYASANKARAN NAMBIAR, J.**

**..................................................**

W.P.(C).No.5230 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.P1 is the notice under Section 13 (2) of the SARFAESI Act.. Ext.P2 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.P.C.Haridas, the learned counsel for the petitioner and Sri.Sunil Cyriac, the learned Standing Counsel appearing on behalf of the respondent bank and also Sri.Shyson P.Manguzha, the learned Government Pleader for the 1st respondent.

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.14,03,280/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.14,03,280/-, together with accrued interest, in ten 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/