IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 5250 of 2015 (E)

PETITIONER(S):

MOHAN. R.,
MANU NIVAS, EDAVOTTOM,
THALAYOLAPARAMBU, KOTTAYAM - 686 605.

BY ADV. SMT.E.V.MOLY.

RESPONDENT(S):
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1. CENTRAL BANK OF INDIA,
   CHEMBU BRANCH,
   REPRESENTED BY ITS CHIEF MANAGER.

2. CENTRAL BANK OF INDIA,
   REGIONAL OFFICE, 1ST FLOOR, METRO PALACE,
   OPPOSITE ERNAKULAM TOWN RAILWAY STATION,
   COCHIN - 682 018, REPRESENTED BY ITS
   AUTHORIZED OFFICER.

BY ADV. SMT. K.S.SANTHI, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 5250 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: THE TRUE COPY OF THE DEMAND NOTICE DATED 08/08/2014 ISSUED UNDER SECTION 13(2) OF THE SARFAESI ACT.

EXT.P2: THE TRUE COPY OF THE POSSESSION NOTICE ISSUED UNDER SECTION 13(4) OF THE SARFAESI ACT.

RSPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5250 OF 2015 (E)

Dated this the 3rd day of March, 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 notice issued to the petitioner under Section 13(2) of the SARFAESI Act and Ext.P2 is the possession notice issued under Section 13(4) of the SARFAESI Act. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard Smt.Moly.E.V., the learned counsel appearing for the petitioner as also Smt.K.S.Santhi, the learned Standing counsel appearing for 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 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 is stated to be Rs.1,42,985/- together with accrued interest. Accordingly, if the petitioner pays the above amount together with accrued interest in eight equal and successive monthly installments commencing from 16.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then further proceedings initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) It is made clear that if the petitioner commits a default in respect of any of the installments, 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp