IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No. 5264 of 2015 (G)

PETITIONER(S):

NITHASHA SABIR,W/O.SABIR, AGED 27 YEARS,
AYISHA MANZIL, P.O.VADAKARA BEACH, KOZHIKODE - 673 103.

BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.MINI.V.A.

RESPONDENT(S):
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1. **THE AUTHORISED OFFICER/SENIOR MANAGER,**
   KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD.,
   KALLAI ROAD, CALICUT - 673 002.

2. **THE BRANCH MANAGER, VATAKARA BRANCH,**
   KOZHIKODE DISTRICT CO-OPERATIVE BANK LTD., VATAKARA,
   KOZHIKODE - 673 101.

BY ADV. SRI.R.SUDHISH, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 5264 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE BANK PASS BOOK OF THE PETITIONER.

EXT.P2: TRUE COPY OF THE NOTICE DATED 12/8/2014 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: TRUE COPY OF THE NOTICE DATED 13/2/2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5264 OF 2015 (G)

Dated this the 24th 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.P2 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act and Ext.P3 is the possession notice issued to the petitioner. 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.C.P.Peethambaran, the learned counsel appearing on behalf of the petitioner as also Sri.R.Sudheesh, 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 her 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.6,80,086/- together with accrued interest. Accordingly, if the petitioner remits the above amount of Rs.6,80,086/- together with accrued interest in eight equal and successive monthly installments commencing from 5.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the recovery steps initiated against her 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 installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp