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.5272 of 2015 (H)

PETITIONER:

SANTHOSHKUMAR P.V.,S/O.VASU P.S.,
PADMAVILASAM HOUSE,MALAKUNNU,
KANNIVAYAL P.O-671 511.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:

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1. THE AUTHORISED OFFICER,
KASARAGOD DISTRICT CO-OPERATIVE BANK LTD.
HEAD OFFICE,P.B.NO.48,NAYAK'S ROAD,
KASARAGOD,PIN-671 121.

2. KASARAGOD DISTRICT CO-OPERATIVE BANK LTD.,
CHITTARIKKAL BRANCH,PIN-671 326,
REPRESENTED BY ITS BRANCH MANAGER.

R1 & R2 BY SRI.JAWAHAR JOSE, SC,KASARAGOD DIST. CO.OP BANK LTD.
SRI.JAWAHAR JOSE, SC, KASARAGOD DIST. CO.OP BANK LTD

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

pk

WP(C).No.5272 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:THE TRUE COPY OF THE MEDICAL CERTIFICATE DATED 13.02.2015 ISSUED TO THE PETITIONER.

EXT.P2:THE TRUE COPY OF THE NOTICE DATED 04.02.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER UNDER SECTION 13 (4) OF THE SARFAESI ACT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.5272 OF 2015 ( )

Dated this the 19th 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.P2 is the possession notice issued under Section 13(4) of the SARFAESI Act to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by 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.Vipindas, the learned counsel appearing on behalf of the petitioner as also Sri.Jawahar Jose, 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 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.4,38,750/- together with accrued interest. Accordingly, if the petitioner remits the above amount together with accrued interest in eight equal and successive monthly installments commencing from 2.3.2015, and continues to keep up the regular installment payment as per the original loan schedule, then the recovery steps initiated against him 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, 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