IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).NO. 5277 OF 2015 (H)

PETITIONER(S):

SRI. RATHEESH KUMAR, AGED 33, S/O.K.P.RAVEENDRAN,
RATHEESH BHAVAN,
THODIYOOR NORTH, MANACALA P.O., ADOOR
PATHANAMTHITTA.

BY ADV. SRI.SAJU J PANICKER

RESPONDENT(S):

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1. M/S. CORPORATION BANK, REPRESENTED BY ITS AUTHORISED OFFICER,
ADOOR BRANCH, PATHANMTHITTA-691 523.

2. THE MANAGER,CORPORATION BANK,
ADOOR BRANCH, KANDATHIL BUILDING, M.C.ROAD
ADOOR, PATHANAMTHITTA-691 523.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).NO. 5277 OF 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1:THE TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE VEHICLE LOAN ACCOUNT (CVEHI)

EXT.P2:THE TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE CKLS LOAN ACCOUNT.

EXT.P3:THE TRUE COPY OF THE STATEMENT OF ACCOUNT OF THE CHOME LOAN ACCOUNT.

EXT.P4:THE TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 13 (2) OF THE SARFAESI ACT.

EXT.P5:THE TRUE COPY OF THE NOTICES DATED 04.09.2014 ISSUED BY THE RESPONDENT BANK.

EXT.P6:THE TRUE COPY OF THE POSSESSION NOTICE DATED 28.01.2015.

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).No.5277 of 2015

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioner, who had availed of three loans 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.P4 is the copy of the notice issued under Section 13 (2) of the SARFAESI Act by the respondent bank. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also the learned Standing counsel 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 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 three loans availed by the petitioner is stated to be Rs.9,03,087/-, together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.9,03,087/-, together with accrued interest, in eight equal and successive monthly instalments commencing from 25.03.2015, and continues to keep up the 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns