IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 5376 of 2015 (V)

PETITIONER:

ALIKUTTY, AGED 57,
S/O.MUHAMMED,
RESIDING AT PULIKKAL VEEDU,
NADUVATTOM P.O. PALAKKAD.

BY ADVS.SRI.P.G.JAYASHANKAR
SMT.V.VIJITHA

RESPONDENT(S):

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1. THE PALAKKAD DISTRICT CO-OPERATIVE BANK LTD.,
   HPO ROAD, SULTANPET, PALAKKAD - 678 001,
   REPRESENTED BY ITS GENERAL MANAGER.

2. THE PALAKKAD DISTRICT CO-OPERATIVE BANK LTD.,
   KOPPAM BRANCH - 678 581,
   REPRESENTED BY ITS BRANCH MANAGER.

BY SRI.M.SASINDRAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 5376 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: **TRUE COPY OF THE COVER PAGE OF THE OVER DRAFT ACCOUNT VIDE CA/OD.695.**

EXT.P2: **TRUE COPY OF THE ANNUAL VAT RETURN IN FORM 10 FOR THE YEAR 2012-13.**

EXT.P3: **TRUE COPY OF THE ANNUAL VAT RETURN IN FORM 10 FOR THE YEAR 2013-14.**

EXT.P4: **TRUE COPY OF THE POSSESSION NOTICE DATED 05.01.2015.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 5376 of 2015
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Dated this the 13th day of March, 2015

JUDGMENT

The petitioner, who had availed 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.P4 is the notice issued to the petitioner 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 Sri.P.G.Jayashankar, the learned counsel appearing on behalf of the petitioner as also Sri.M.Sasidharan, the learned Standing Counsel appearing on behalf of the respondents.

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 amount outstanding from the petitioner, in respect of the loan, is stated to be Rs.44,68,356/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.44,68,356/- together with accrued interest in six equal and successive monthly installments commencing from 27.03.2015, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das