IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No.5378 of 2015 (V)

PETITIONER:

SAJI KUMAR, AGED 38 YEARS,S/O.RANGASWAMY,
ANCY BHAVAN,ERINJANAMPALLY,VELLARADA P.O.,
THIRUVANANTHAPURAM-695 505.

BY ADV. SRI.R.T.PRADEEP

RESPONDENT:

THE AUTHORISED OFFICER/
THE ASSISTANT GENERAL MANAGER,
STATE BANK OF INDIA,SMECCC,SANGAMOM,
GAS HOUSE JUNCTION,
THIRUVANANTHAPURAM-695 001.

BY SRI.R.S.KALKURA,SC,SBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.5378 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF RELEVANT PAGE OF CERTIFICATE OF REGISTRATION DATED 21.6.2012 PERTAINING TO VEHICLE OF PETITIONER.

EXT.P2:TRUE COPY OF THE STATEMENT OF ACCOUNTS FROM 22.5.2012 TO 13.2.2015.

EXT.P3:TRUE COPY OF NOTICE DATED 12.6.2014 UNDER SECTION 13(2) OF THE SARFAESI ACT.

EXT.P4:TRUE COPY OF WARRANT DATED 13.2.2005 UNDER SECTION 13(4) OF THE SARFAESI ACT.

EXT.P5:TRUE COPY OF INVENTORY NILL DATED AS TO THE REPOSSESSION OF SECURED ASSET.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.5378 of 2015

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Dated this the 26th day of February, 2015

J U D G M E N T

The petitioner who had availed of a vehicle 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.P3 is the notice issued under Section 13 (2) of the SARFAESI Act. Ext.P4 is the possession notice issued under Section 13 (4) of the SARFAESI Act to take possession of the secured assets. It is pointed out that the respondent bank has since taken possession of the secured assets namely the vehicle. 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.R.T.Pradeep, the learned counsel for the petitioner and Sri.R.S.Kalkura, 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 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 loan availed by the petitioner is stated to be Rs.1,62,902 /- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.75,000/- on or before 10.03.2015 and the remaining amount of Rs.87,902/-, together with accrued interest in five equal and monthly instalments commencing from 10.04.2015 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 on the petitioner paying Rs.75,000/- on or before 10.03.2015, the respondent bank shall release the vehicle forthwith to the petitioner.

iii. 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 currently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns