IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 5445 of 2015 (E)

PETITIONER :

ANILKUMAR N., AGED 45 YEARS,
S/O.NATESAN, ETTUKANDATHIL, PUNNAPRA P.O.,
PUNNAPRA VILLAGE, ALAPPUZHA DISTRICT.

BY ADVS.SMT.GISA SUSAN THOMAS
SMT.NEENU.P.KUMAR
SMT.K.S.SHALEEJA
SRI.G.SIJI
SMT.N.LEELAMANI

RESPONDENTS :
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1. KERALA STATE CO-OPERATIVE BANK LTD.
ALAPPUZHA BRANCH, REPRESENTED BY ITS MANAGER, 688 001.

2. THE AUTHORISED OFFICER,
KERALA STATE CO-OPERATIVE BANK LTD, REGIONAL OFFICE,
ANANDHI BUILDING, PULLEPPADY JUNCTION, CHITTOOR ROAD,
ERNAKULAM, KOCHI 682 035.

BY SRI.GEORGE POONTHOTTAM, SC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 5445 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS :

P1: COPY EXTRACT OF THE ACCOUNT DETAILS.

P2: COPY OF THE AUCTION SALE NOTICE DT 9/1/2015.

P3: COPY OF THE AUCTION SALE NOTICE DT 4/2/2015 ISSUED BY THE R2.

P4: COPY OF THE NOTICE PUBLISHED IN MATHRUBHUMI DAILY DT 04/2/2015.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 5445 of 2015 (E)

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Dated this the 20th day of February, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 1st respondent Bank in the year 2010, defaulted in re-payment 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', against the petitioner. Ext.P3 is the auction sale notice, issued by the 2nd respondent to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Smt.Gisa Susan Thomas, the learned counsel appearing for the petitioner and Sri.George Poonthottam, learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole prayer of the petitioner is to permit him to remit the overdue amount 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 from the petitioner to the respondent Bank is stated to be an amount of Rs.1,36,401/- together with accrued interest. Accordingly, if the petitioner remits the amount of Rs.1,36,401/- together with accrued interest in four equal and successive monthly installments commencing from 10.03.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him pursuant to Ext.P3 notice, 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 benefits 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

AMV/20/02/