IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 5511 of 2015 (L)

PETITIONER(S):

P.K. BIJU,
KUTTMEL HOUSE, MADAPALLY P.O.,
MOSCO, KOTTAYAM- 686 546.

BY ADV. SMT.E.V.MOLY.

RESPONDENT(S):

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1. INDUSIND BANK LTD.,
   KOTTAYAM BRANCH,
   REPRESENTED BY ITS BRANCH MANAGER.

2. INDUSIND BANK LTD.,
   SHALOM TOWERS, BYPASS NORTH END, EDAPALLY,
   KOCHI, REPRESENTED BY ITS AUTHORIZED OFFICER.

BY ADVS. SRI.G.HARIHARAN, SC,
SRI.PRAVEEN.H., SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 5511 of 2015 (L)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT P1: TRUE COPY OF THE RECEIPT ISSUED BY THE ADVOCATE COMMISSIONER FOR TAKING PHYSICAL POSSESSION OF THE VEHICLE.

EXHIBIT P2: TRUE COPY OF THE LETTER ISSUED BY THE BANK ON 11/11/2014.

EXHIBIT P3: TRUE COPY OF SALE NOTICE PUBLISHED IN INDIAN EXPRESS DAILY DATED 12/02/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 5511 of 2015 (L)

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Dated this the 10th day of March, 2015

JUDGMENT

The petitioner, who had availed of a vehicle loan from the respondent Bank in the year 2013, 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', against the petitioner. Ext.P3 is the copy of sale notice issued under Section 13(2) of SARFAESI Act, 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.Moly E.V., the learned counsel appearing for the petitioner and Sri.G.Hariharan, the learned Standing Counsel appearing for 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 total overdue amount 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 from the petitioner to the respondent Bank under the vehicle loan is stated to be Rs.78,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.78,000/- together with accrued interest in six equal and successive monthly installments commencing from 25.03.2015, and continues to pay the regular monthly installments 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 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/10/03/