IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WP(C).No. 5666 of 2015 (G)

PETITIONER(S):

BABY.C, AGED 42 YEARS,
W/O.C.SREEDHARAN, CHODALAKKAL HOUSE, MEENADATHOOR P.O,
THANALUR VIA, MALAPPURAM DISTRICT- 676 307.

BY ADV. SMT.N.DEEPA

RESPONDENT(S) :

THE TIRUR URBAN CO-OPERATIVE BANK LTD.,
REP.BY ITS AUTHORISED OFFICER/ASSISTANT MANAGER,
NO.F.1818, TIRUR MAIN BRANCH, 37/813,
MANNIL BUILDING, CITY JUNCTION, P.O. TIRUR-676 101.

BY ADV. SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 5666 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: **A TRUE COPY OF THE NOTICE DATED 03.01.2015 ISSUED BY SYYID MOHAMMED SAIFUDHEEN, ADVOCATE COMMISSIONER, MANJERI TO THE PETITIONER.**

EXHIBIT P2: **A TRUE COPY OF THE STATEMENT OF ACCOUNTS ISSUED BY THE RESPONDENT AS ON 05.02.2015.**

EXHIBIT P3: **TRUE COPY OF AUTHORISATION LETTER DATED 16.02.2015.**

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.5666 of 2015 (G)

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Dated this the 23rd day of February, 2015

<u>JUDGMENT</u>

The petitioner's husband, who had availed of a housing loan from the respondent Bank in the year 2012, 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.P1 is the notice issued by the Advocate Commissioner, pursuant to the order of the Chief Judicial Magistrate, Manjeri. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts. The writ petition is filed by the petitioner having been duly authorised by her husband by Ext.P3 authorisation.

2. Heard Smt.N.Deepa, the learned counsel appearing for the petitioner and Sri.Devaprasanth, learned Standing counsel appearing for the respondent.

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 housing loan, from the petitioner/her husband (borrower) to the respondent Bank is stated to be an amount of Rs.2,06,892/- together with accrued interest. Accordingly, if the petitioner/her husband remits the amount of Rs.2,06,892/- together with accrued interest in five 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 them pursuant to Ext.P1 notice, shall be kept in abeyance.

(ii) It is made clear that, if the petitioner/her husband commits a default in respect of any of the instalments, they will lose the benefits of this judgment and the respondent bank will be free to continue the recovery proceedings against them from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/23/02/