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. 5679 of 2015 (H)

PETITIONER(S):

PRABHAKARAN NADAR T., AGED 53 YEARS,
S/O.THANKAPPAN NADAR, UNIVERSITY QUARTERS,
D/7 KARAVATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.SARIN

RESPONDENT(S):

THE AUTHORISED OFFICER/CHIEF MANAGER,
HDFC HOUSE, VAZHUTHACAUD BRANCH,
THIRUVANANTHAPURAM - 695 061.

BY ADV. SRI.K.K.CHANDRAN PILLAI, SENIOR ADVOCATE
ADV. SMT.S.AMBILY

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

msv/

WP(C).No. 5679 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE DEMAND NOTICE ISSUED BY RESPONDENT TO PETITIONER ON 18.8.14.

EXT.P-2: TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.5679 of 2015

....

Dated this the 23rd day of February, 2015

J U D G M E N T

The petitioner, who had availed of two loans 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.P1 is the demand notice issued by the respondent bank. Ext.P2 is the notice issued by the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court to take possession of the property. 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.Sarin Panicker, the learned counsel appearing on behalf of the petitioner as also Smt.Ambily, the learned Standing counsel for 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 both the loans availed by the petitioner is stated to be Rs.1,39,283/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,39,283/- together with accrued interest in four equal and successive monthly instalments commencing from 10.03.2015, and continues to keep up 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 if the petitioner commit 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 presently stand.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns