IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No.5804 of 2015 (A)

PETITIONER:

SHAJAHAN ABDUL AZEEZ,SHANAVAS MANZIL,
PANDALAM P.O.,KURAMPALA VILLAGE,
PATHANAMTHITTA DISTRICT,PIN:689 501.

BY ADV. SRI.K.M.VARGHESE

RESPONDENTS:

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1. AUTHORIZED OFFICER,HDFC LTD.,
HDFC HOUSE,VAZHUTHAKKAD,
THIRUVANANTHAPURAM,PIN:695 010.

2. HDFC LTD.,PATHANAMTHITTA BRANCH,
REPRESENTED BY BRANCH MANAGER,
PIN:689 645.

R1 BY SRI.K.K.CHANDRAN PILLAI (SENIOR ADVOCATE.)
SMT.K.V.SHENU
SMT.S.AMBILY,S.C FOR HDFC
SRI.ARUN ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.5804 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:TRUE COPY OF THE NOTICE DATED 5/4/2014 ISSUED BY THE RESPONDENT NO.2.

EXT.P2:TRUE COPY OF THE ORDER DATED 26/11/2014 IN M.C NO.1240/2014 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTHAPURAM.

EXT.P3:TRUE COPY OF THE REPRESENTATION DATED 16/2/2015 GIVEN BY THE PETITIONER TO RESPONDENTS.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.5804 of 2015 (A)

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Dated this the 24th day of February, 2015

JUDGMENT

The petitioner, who had availed of a loan from the respondent Bank in the year 2011, 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 under Section 13(2) of SARFAESI Act to the petitioner in that regard. Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate Court, Thiruvananthapuram, to take possession of the immovable property that was offered as security to the respondent Bank, for the loan availed by the petitioners. In the writ petition, the petitioners impugn the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.K.M.Varghese, the learned counsel appearing for the petitioner and Smt.Ambily S., 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 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 in respect of the loan is stated to be an amount of Rs.11,59,855/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.11,59,855/- together with accrued interest in six equal and successive monthly installments commencing from 27.03.2015, and continues to pay the loan 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/02/