IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 5929 of 2015 (M)

PETITIONER(S):

VIJI KUMAR AGED 38 YEARS,
S/O. GANAPATHI ACHARI
YATHUKULAM, VETTILATHAZHATHUCHERRYDECENT JUNCTION,
KOLLAM - 691 577.

BY ADVS.SRI.GEORGE VARGHESE (MANACHIRACKEL)
SMT.SALI. P. MATHEW (MUNNAR)

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER
REGIONAL OFFICE UNION BANK OF INDIA
UNION BANK BHAVAN M.G.ROAD, STATUE
THIRUVANANTHAPURAM - 695 001.

2. THE SENIOR MANAGER
UNION BANK OF INDIA
KOTTIYAM BRANCH, KOLLAM - 691 577.

R BY SRI.A.S.P.KURUP, SC, UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD/

WP(C).No. 5929 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF THE SECTION 13(2) NOTICE DATED 22.04.2014.

EXHIBIT P2. TRUE COPY OF THE NOTICE ISSUED BY ADVOCATE COMMISSIONER DATED 06.02.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 5929 of 2015

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Dated this the 25th day of March, 2015

JUDGMENT

The petitioner, who had availed a loan 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 notice issued under to the petitioner under Section 13(2) of the SARFAESI Act. Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the direction of the Chief Judicial Magistrate Court, Kollam, on an application under Section 14 preferred by the respondent bank.

It is the specific case of the petitioner in the writ petition that, inasmuch as he had already paid the overdue amounts to the respondent bank, he could not be seen as a defaulter since, the payment of the overdue amounts would have resulted in the regularisation of his account, which would then have ceased to be a non performing asset (NPA) of the bank. It is his case, therefore, that proceedings initiated against him now, are without any legal basis and therefore, are liable to be quashed.

2. I have heard the learned counsel appearing on behalf of the petitioners as also the learned Standing Counsel appearing on behalf of the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, as also taking note of submission of the learned Standing Counsel for the respondent bank that the petitioner has since paid the defaulted amount and regularised the loan account, I am of the view that further proceedings pursuant to Exts.P1 and P2 notices, as against the petitioner, cannot be continued. Resultantly, the said notices are quashed and the writ petition is allowed accordingly, making it clear that nothing in this judgment would stand in the way of the respondent bank initiating fresh proceedings, in accordance with the SARFAESI Act, in the event of any future default by the petitioner.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das