IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No.6192 of 2015 (Y)

PETITIONER:

NELROY JOSEPH,S/O.JOSEPH,
EZHUTHUPURAYIL HOUSE,
KADAPLAMATTOM P.O.,
KOTTAYAM DISTRICT.

BY ADVS.SRI.N.SASI
SMT.T.M.BINITHA

RESPONDENT:

THE AUTHORIZED OFFICER,FEDERAL BANK,
ST.MARY'S CHURCH BUILDING,
KADAPLAMATTOM BRANCH,
KOTTAYAM DISTRICT-680001.

R1 BY ADVS.SRI.A.ANTONY
SMT.LEELAMMA ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.6192 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1-TRUE COPY OF THE 13(2) DEMAND NOTICE DATED 9.12.2014 ISSUED BY THE RESPONDENT TO THE PETITIONER

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.6192 of 2015

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Dated this the 1st day of April, 2015

J U D G M E N T

The petitioner, who had availed of a housing 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 demand notice under Section 13(2) of the SARFAESI Act issued by the respondent to the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. I have heard the learned counsel appearing on behalf of the petitioner as also 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 the loan availed by the petitioner is stated to be Rs.2,82,160/- together with accrued interest. It is submitted by counsel for the petitioner that an amount of Rs.2,50,000/- has since been remitted to the respondent bank. This is a matter to be verified by the respondent bank, and if the said payment has been paid and received by the respondent bank, then after giving credit to the said payment, the balance amount of Rs.32,160/- shall be remitted by the petitioner on or before 30.04.2015. Thereafter, the petitioner shall continues to keep up the regular instalments as per the original loan schedule.

(ii) If the petitioner complies with the conditions above, then further proceedings for recovery shall be kept in abeyance. It is made clear that if the petitioner commits 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