IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 6331 of 2015 (N)

PETITIONER(S) :

PHILIPHOSE ABRAHAM, AGED 75 YEARS,
S/O.ABRAHAM, MANIYAKUNNEL HOUSE, VATTAPARA P.O.,
IDUKKI DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S) :
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1. THE IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
   REP.BY ITS MANAGER, IDUKKI BRANCH, IDUKKI-673 001.

2. THE AUTHORISED OFFICER,
   IDUKKI DISTRICT CO-OPERATIVE BANK LTD.,
   IDUKKI BRANCH, IDUKKI-673 001.

   BY ADV. SRI.P.C.CHACKO, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 6331 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **A TRUE COPY OF THE NOTICE ISSUED BY THE SECOND RESPONDENT DATED 24.01.2015.**

EXT.P2: **A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE AGRICULTURE DEBT RELIEF AUTHORITY, THIRUVANANTHAPURAM DATED 28.01.2015.**

EXT.P3: **A TRUE COPY OF THE POSSESSION NOTICE ISSUED DATED 09.01.2015.**

EXT.P4: **A TRUE COPY OF THE DEMAND NOTICE DATED 01.08.2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6331 OF 2015 (N)

Dated this the 4th day of March, 2015

<u>J U D G M E N T</u>

The petitioner, who had availed of 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.P3 is the possession notice issued to the petitioner under the SARFAESI Act. It is stated that the respondent bank had already taken possession of the secured asset. 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.Sreekumar.G., the learned counsel appearing for the petitioner as also Sri.P.C.Chacko, the learned Standing counsel appearing 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 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 availed by the petitioner, is stated to be Rs.4,45,905/- together with accrued interest. Accordingly, if the petitioner pays the above amount of Rs. 4,45,905/- together with accrued interest in five equal and successive monthly installments commencing from 16.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that on the petitioner discharging the overdue liability, the respondent bank shall hand over possession of the secured asset to the petitioner.

(ii) It is further made clear that if the petitioner commits a default in respect of any of the installments, 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

prp