IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 6366 of 2015 (U)

PETITIONER:

SHIHAB K.U, AGED 36 YEARS
S/O.USMAN, RESIDING AT 'KATTETH HOUSE'
EDAVOOR, ERNAKULAM, PIN-683 544.

BY ADVS.SRI.SAIJU S.
SRI.P.H.RISHAD

RESPONDENT:

CANARA BANK,
PERUMBAVOOR BRANCH, CHEMMANAM SQUARE, PERUMBAVOOR
ERNAKULAM, PIN-683 542
REPRESENTED BY ITS AUTHORISED OFFICER UNDER THE
SARFAESI ACT 2002.

BY SRI.V.B.HARI NARAYANAN SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 6366 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **THE TRUE COPY OF THE POSSESSION NOTICE DATED 28.01.2015 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER AND CO-OBLIGANTS, UNDER SECTION 13(4) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.**

RESPONDENT(S)' EXHIBITS

//TRUE COPY//

P.A. TO JUDGE

JJJ

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO. 6366 OF 2015 (U)

Dated this the 27th day of February, 2015

J U D G M E N T

The petitioner, who had availed of an overdraft facility 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 possession notice issued by the respondent bank. 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.Saiju.S., the learned counsel appearing on behalf of the petitioner as also Sri.V.B.Hari Narayanan, the learned Standing counsel appearing on behalf of 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.1,20,41,485/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,20,41,485/- together with accrued interest in twelve equal and successive monthly installments commencing from 20.3.2015, and continues to keep up the regular installment payments 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 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

jjj