IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 6534 of 2015 (N)

PETITIONER(S):

SHOBHA BHASKER, W/O. BHASKER SETH,
AGED 51 YEARS, PAWAR HOUSE, EAST FORT P.O.
THRISSUR-680 005.

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):
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1. THE AUTHORIZED OFFICER,
   IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD.NO.55,
   HEAD OFFICE, IRINJALAKUDA, 680 121, THRISSUR DISTRICT.

2. IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD.NO.55,
   HEAD OFFICE, IRINJALAKUDA-680 121, THRISSUR DISTRICT.
   REPRESENTED BY ITS GENERAL MANAGER.

3. GENERAL MANAGER ,
   IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD.NO.55,
   HEAD OFFICE, IRINJALAKUDA-680 121, THRISSUR DISTRICT.

BY ADV. SRI.DEVAPRASANTH.P.J., SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
23-03- 2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD/

WP(C).No. 6534 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT- P1 : TRUE COPY OF THE NOTICE ISSUED UNDER SEC.13(2) OF THE SARFESI ACT DATED 28.6.2010 ISSUED BY THE 1ST RESPONDENT.

EXT- P2 : TRUE COPY OF THE REQUEST DATED 4.7.2011 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT- P3 : TRUE COPY OF THE JUDGMENT IS WPC NO.22544/2011 DATED 18.11.2011.

EXT- P4 : TRUE COPY OF THE ORDER DATED 7.2.2012 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT- P5 : TRUE COPY OF THE NOTICE DTD.11.3.2013 ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT- P6 : TRUE COPY OF THE REPLY ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DTD.20.3.2013.

EXT- P7 : TRUE COPY OF THE NOTICE DATED 29.12.2014 ISSUED UNDER SEC.13(4) OF THE SARFAESI ACT TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 6534 of 2015

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Dated this the 23rd 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 to the petitioner under Section 13(2) of the SARFAESI Act. 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 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, I note that the sole prayer of the petitioner is to permit her 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, is stated to be Rs.42,06,678/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.7,50,000/- on or before 31.03.2015 and remits the balance amount of Rs.34,56,678/- together with accrued interest in eight equal and successive monthly installments commencing from 30.04.2015, then the recovery steps initiated against her by the respondent bank shall be kept in abeyance.

(ii) On the petitioner remitting the first payment of Rs.7,50,000/- on or before 31.03.2015, the petitioner will be entitled to approach the respondent bank with a petition for extension of the benefit of the Aswas Scheme. If the petitioner files a suitable application, then the same shall be considered by the respondent bank and the petitioner shall be extended the benefits, to which she is entitled under the said scheme. The respondent bank shall intimate the petitioner, of the benefits available to her and the petitioner will be liable to remit only such reduced amounts thereafter, in compliance with this judgment.

(iii) It is made clear that, subject to the above, if the petitioner commits a default in respect of any of the installments, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

Sd/-

A.K.JAYASANKARAN NAMBIAR
JUDGE

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