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. 6710 of 2015 (K)

PETITIONER(S):

C.K. JACOB, AGED 67 YEARS,
S/O.LATE KOCHAPPU, RESIDING AT
CHOVALLOOR (H), THYCAUD (P.O),
GURUVAYOOR - 680 104.

BY ADV. SRI.R.V.SUJIT KUMAR.

RESPONDENT(S):

THE THRISSUR DISTRICT CO-OPERATIVE BANK,
GURUVAYOOR BRANCH, R.V. TRADE CENTRE,
EAST NADA, GURUVAYOOR (P.O), PIN- 680 101,
REPRESENTED BY AUTHORIZED SIGNATORY.

BY ADV. SRI.C.A.MAJEED, SC.

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

rs.

WP(C).No. 6710 of 2015 (K)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P-1: TRUE COPY OF DISCHARGE SUMMARY DATED 18.02.2015.

EXT.P-2: TRUE COPY OF THE LETTER DATED 14.11.2014 DEMANDING RS.3,25,043/-.

EXT.P-3: TRUE COPY OF THE LETTER DATED 14.06.2014 DEMANDING RS.2,92,223/-.

EXT.P-4: TRUE COPY OF THE LETTER DATED 14.11.2014 DEMANDING RS.1,95,369/-.

EXT.P-5: TRUE COPY OF THE LETTER DATED 14.11.2014 DEMANDING RS.17,766/-.

EXT.P-6: TRUE COPY OF THE DEMAND NOTICE DATED 10.11.2014 ISSUED ON 19.11.2014 DEMANDING RS.22,09,875/- FOR LOAN A/C NO.1429.

EXT.P-7: TRUE COPY OF THE DEMAND NOTICE DATED 10.11.2014 ISSUED ON 19.11.2014 DEMANDING RS.22,09,818/- FOR LOAN A/C NO.1430.

EXT.P-8: TRUE COPY OF THE DEMAND NOTICE DATED 10.11.2014 ISSUED ON 20.11.2014 DEMANDING RS.20,53,039/- FOR LOAN A/C NO.1412.

EXT.P-9: TRUE COPY OF THE DEMAND NOTICE DATED 10.11.2014 ISSUED ON 20.11.2014 DEMANDING RS.10,36,474/- FOR LOAN A/C NO.1405.

EXT.P-10: TRUE COPY OF LETTER DATED 26.12.2014 ISSUED BY THE EXECUTIVE ENGINEER, PWD ROADS DIVISION, THRISSUR REPORTING THAT AN AMOUNT OF RS.76,35,595 IS PENDING AS CHEQUE AMOUNT TO THE PETITIONER.

EXT.P-11: TRUE COPY OF THE LETTER DATED 04.02.2015 ISSUED BY THE RESPONDENT BANK TAKING SYMBOLIC POSSESSION OF SECURED ASSET HAVING AN EXTENT OF 9.61 CENTS IN SY.NO.81/4 AND 80/5 OF THYCAUD VILLAGE HELD IN THE NAME OF PETITIONER'S SON RAFI.

EXT.P-12: TRUE COPY OF THE LETTER DATED 04.02.2015 ISSUED BY THE RESPONDENT BANK TAKING SYMBOLIC POSSESSION OF SECURED ASSET HAVING AN EXTENT OF 45.6 CENTRE IN SY NO.57/13 OF THYCAUD VILLAGE HELD IN THE NAME OF PETITIONER'S SON JINTO.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.6710 OF 2015 (K)

Dated this the 4th day of March, 2015

J U D G M E N T

The petitioner, who had availed of loans 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. Exts.P11 and P12 are the possession notices 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.R.V.Sujit Kumar, the learned counsel appearing on behalf of the petitioner as also Sri.C.A.Majeed, the 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 loans availed by the petitioner, is stated to be Rs.13,28,657/- together with accrued interest. Accordingly, if the petitioner remits the above amount together with accrued interest in eight equal and successive monthly installments commencing from 20.3.2015, then the recovery steps initiated against him by the respondent bank shall be kept in abeyance.
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> (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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp