IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 28TH DAY OF MAY 2015/7TH JYAISHTA, 1937

WP(C).No. 6761 of 2015 (U)

PETITIONER :

LINO THOMAS, AGED 31 YEARS,
S/O. MR. K.V.THOMAS, KOTTACKAL HOUSE,
ANGAMALY P.O., ERNAKULAM-683 572.

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SRI.M.M.SHAJAHAN

RESPONDENTS :

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1. UNION OF INDIA
MINISTRY OF FINANCE DEPARTMENT OF FINANCIAL SERVICES,
3RD FLOOR, JEEVAN DEEP BUILDING, SANSAD MARG
NEW DELHI-110 001
REPRESENTED BY ITS FINANCE SECRETARY.

2. FEDERAL BANK LIMITED
REGISTERED OFFICE, ALUVA P.O.,
ERNAKULAM DISTRICT-683 101
REPRESENTED BY ITS MANAGING DIRECTOR.

3. BRANCH MANAGER
FEDERAL BANK LIMITED, POOVATHUSSERY BRANCH
PARAKKADAVU P.O., ERNAKULAM DISTRICT-683 579.

4. AUTHORISED OFFICER
FEDERAL BANK LIMITED,
ZONAL OFFICER STRESSED ASSEST MANAGEMENT CELL
FEDERAL TOWERS, 1ST FLOOR, MARINE DRIVE,
SHANMUGAM ROAD P.O., ERNAKULAM-682 031.

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R4 BY ADV. SRI.A.ANTONY
R4 BY ADV. SMT.LEELAMMA ANTONY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 6761 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 : **COPY OF THE NOTICE UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT.**

P1(A): COPY OF THE ENVELOP CONTAINING EXT.P1 NOTICE.

P2 : **COPY OF THE REPRESENTATION FILED BY THE PETITIONER UNDER SECTION 13(3A) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT.**

P3 : **COPY OF THE POSSESSION NOTICE ISSUED BY THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C) No.6761 of 2015

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Dated this the 28th day of May, 2015

JUDGMENT

The petitioner mortgaged four items of the properties with the Bank under a term loan and defaulted in repaying the loan, approached this Court impugning SARFAESI proceedings.

2. It is submitted by the petitioner that liability is now around Rs.22 lakhs and he is prepared to pay Rs.10 lakhs on or before 15.6.2015, provided the Bank shall release Item Nos.1 and 3 to him. It is submitted that if Item Nos.1 and 3 are released, he may be able to raise remaining amount and pay the entire liability during the term of the loan itself.

3. Learned counsel for the Bank opposes the petitioner's prayer and submits that partial redemption of the mortgage is not possible and of course, Bank can consider

the request, provided, if the valuation is taken and the Bank is satisfied with the genuineness of the request.

In that view of the matter, following directions are issued:

1. The petitioner shall deposit Rs.10 lakhs on or before 15.6.2015.

2. The Bank shall take necessary steps for valuation at the expense of the petitioner and find out the value of Item Nos.2 and 4 before 15.6.2015.

3. Thereafter, on payment of Rs.10 lakhs, based on the valuation of Item Nos.2 and 4, appropriate decision shall be taken by the Bank to release Item Nos.1 and 3 within a further period of one week from 15.6.2015.

4. The balance amount after payment of Rs.10 lakhs shall be paid by the petitioner during

the term of the loan itself in equal monthly instalments starting from July, 2015.

5. If the petitioner commits default in remitting two consecutive instalments, the Bank is at liberty to proceed against the petitioner in accordance with law.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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