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. 6867 of 2015 (G)

PETITIONER(S):

SHEENA VIJU, S/O.VIJU,
THUPRADAN HOUSE, MALLITHARA VAZHI, NEDUPUZHA P.O.
THRISSUR - 680015.

BY ADV. SRI.V.C.MADHAVANKUTTY

RESPONDENT(S):

THE TRICHUR URBAN CO-OPERATIVE URBAN BANK LTD
REP: BY ITS AUTHORISED OFFICER, HEAD OFFICE
MISSION QUARTERS, THRISSUR - 680001.

BY SRI.C.D.DILEEP,SC

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

PJ

WP(C).No. 6867 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- CERTIFICATE ISSUED FROM AMALA INSTITUTE OF MEDICAL SCIENCE DATED 23.2.2015 ISSUED BY DOCTOR S.RAJAGOPAL

EXHIBIT P2- CERTIFICATE ISSUED FROM AMALA INSTITUTE OF MEDICAL SCIENCE DATED 23.2.2015 ISSUED BY DOCTOR JAYAKRISHNAN KOLADY

EXHIBIT P3- DEATH CERTIFICATE DATED 19.9.2014 OF PETITIONERS HUSBAND VIJU

EXHIBIT P4- THE SALE NOTICE ISSUED BY THE RESPONDENT BANK DATED 21.01.2015 IN THE NAME OF THE PETITIONER

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.6867 of 2015

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Dated this the 4th day of March, 2015

J U D G M E N T

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.P4 is the sale 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.V.C.Madhavankutty, the learned counsel appearing on behalf of the petitioner as also Sri.C.D.Dileep, the learned Standing counsel 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 instalments. 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.1,85,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,85,000/- together with accrued interest in six equal and successive monthly instalments commencing from 20.03.2015, and continues to keep up regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 instalments, 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

mns