IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 6953 of 2015 (T)

PETITIONER(S):

AJI JOSEPH, AGED 41 YEARS,
S/O.JOSEPH, KANAKAMCHERRY, KULATHUVAYAL
KAYANNA.P.O., PERAMBRA, KOZHIKODE- 673 526.

BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENT(S):
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1. **THE AUTHORISED OFFICER,**
   KERALA MERCANTILE CO-OPERATIVE BANK LIMITED,
   VYAPARABHAVAN, BANK ROAD, KOZHIKODE-673001.

2. **THE MANAGER,**
   KERALA MERCANTILE CO-OPERATIVE BANK LIMITED,
   VYAPARABHAVAN, BANK ROAD, KOZHIKODE-673001.

R1&R2 BY ADV. SRI.A.KRISHNAN,SC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD/

WP(C).No. 6953 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN W.P.(C) NO.515 OF 2014 DATED 13.1.2014

EXT.P2 COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE SUB INSPECTOR OF NALLALAM POLICE STATION DATED 30.5.2014.

EXT.P3 COPY OF THE POSSESSION NOTICE ISSUED BY THE RESPONDENTS BANK DATED 18.12.2014.

EXT.P4 COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER DATED 24.2.2015.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.6953 of 2015

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Dated this the 25th 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.P3 is the possession notice issued by the respondent bank under 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 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.2,88,400/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.2,88,400/- together with accrued interest in six equal and successive monthly instalments commencing from 20.04.2015, and continues to keep up the 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