IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 7134 of 2015 (N)

PETITIONER(S):

RAJESH S.NAIR, S/O.SANKARANKUTTY NAIR,
SANKAR BHAVAN, KOTHANALLOOR P.O., KOTTAYAM-686 632
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER SAROJINI AMMA
W/O.LATE SANKARANKUTTY NAIR, SANKAR BHAVAN
KOTHANALLOOR P.O., KOTTAYAM-686 632.

BY ADV. SRI.LIJI.J.VADAKEDOM

RESPONDENT(S):
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1. THE STATE BANK OF TRAVANCORE,
   KURUPPANTHARA BRANCH, KOTTAYAM
   REPRESENTED BY ITS AUTHORISED OFFICER.

2. THE CHIEF MANAGER,
   STATE BANK OF TRAVANCORE,
   KURUPPANTHARA BRANCH,
   KOTTAYAM.

BY SRI.R.S.KALKURA, SC, SBT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 7134 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: **THE COPY OF THE TERM LOAN AGREEMENT DATED 13.7.2012.**

EXT.P2: **THE COPY OF THE JUDGMENT DATED 21.11.2013 IN WP(C) NO.28691/2013 BEFORE THE HONOURABLE HIGH COURT OF KERALA.**

EXT.P3: **THE CERTIFIED COPY OF THE CMP NO.238/2015 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM FILED BY THE RESPONDENTS.**

RESPONDENT(S)' EXHIBITS
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NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.7134 of 2015 (N)

...

Dated this the 20th day of March, 2015

JUDGMENT

The petitioner, who had availed of a loan from the 1st respondent Bank, defaulted in re-payment 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', against the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Liji J. Vadakedom, learned counsel appearing for the petitioner and Sri.R.S.Kalkura, learned Standing counsel appearing for 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 him to remit the total overdue amount 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.6,52,570/-. Accordingly, if the petitioner pays the said amount of Rs.6,52,570/- on or before 20.04.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, further proceedings for recovery of the loan amount shall be kept in abeyance.

ii. I make it clear that, if the petitioner pays the entire overdue amount of Rs.6,52,570/- on or before 20.04.2015, as directed, then, the respondent Bank shall hand over possession of the vehicle to the petitioner.

iii. The respondent Bank shall also furnish the petitioner with an up to date statement of the balance liability due from the petitioner within a period of two weeks from today.

iv. It is made clear that, if the petitioner commits a default in respect of the aforesaid direction, 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.

sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/21/03/