IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 7283 of 2015 (I)

PETITIONER(S):

WILFRED CAMEONS, AGED 65 YEARS,
S/O. C.L. CAMEONS, TWINS TRADERS, M.G. ROAD,
ERNAKULAM-682 016, RESIDING AT VELANKANNI HOUSE,
42, MYTHREE NAGAR, EDAPPALLY.

BY ADVS.SRI.JACOB CHACKO,
SRI.B.V.JOY SANKER.

RESPONDENT(S):

AUTHORIZED OFFICER/CHIEF MANAGER,
HDFC BANK, S.L. PLAZA, PALARIVATTOM,
KOCHI- 682 025.

BY ADV. SRI.T.RAJESH, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 7283 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1- TRUE COPY OF THE NOTICE ISSUED UNDER SECTION 13 (2) OF THE SARFAESI ACT DATED 05/12/2013.

EXHIBIT-P2- TRUE COPY OF THE POSSESSION NOTICE DATED 26/08/2014 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT-P3- TRUE COPY OF THE DEMAND DRAFT FOR RS. 2 LAKHS DATED 07/12/2014.

EXHIBIT-P4- TRUE COPY OF THE NOTICE OF COMMISSIONER IN CRL.M.P. 4156/2014 OF THE HONOURABLE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C) No. 7283 of 2015 (I)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioner, who had availed of a Cash Credit facility 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', against the petitioner. Ext.P2 is the possession notice issued to the petitioner in that regard. Ext.P4 is the notice issued by the Advocate Commissioner pursuant to the order passed by the Chief Judicial Magistrate, Ernakulam to take possession of the immovable property that was offered as security to the respondent bank, for the loan availed by the petitioner. 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.Jacob Chacko, the learned counsel for the petitioner and Sri.T.Rajesh, the learned Standing counsel appearing for the respondent.

3. On a consideration of the facts and circumstances of the case and also the submissions made across the Bar, I note that the sole

prayer of the petitioner is to permit him to remit the total amount 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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.42,00,000/-. Accordingly, if the petitioner pays an amount of Rs.3,00,000/- on or before 31.03.2015, and pays the balance amount of Rs.39,00,000/- together with accrued interest in twelve equal and successive monthly installments commencing from 20.03.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the Bank shall be kept in abeyance.

(ii) It is made clear that, if the petitioner commits a default in respect of any of the installments, he will lose the benefits 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/11/03/