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.7300 of 2015 (J)

PETITIONER:

ANSAR P.A.,PROPRIETOR,
M/S.ANAAN FOODS AND BEVERAGES,
PERINGATTIL HOUSE,VADACODE P.O.,
KANGARAPADY,KOCHI - 682 021.

BY ADVS.SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:

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1. THE BRANCH MANAGER,INDIAN BANK,
KAKKANAD BRANCH,ERNAKULAM - 682 030.

2. THE AUTHORISED OFFICER,INDIAN BANK,
ZONAL OFFICE,S.A.ROAD,KOCHI - 682 016.

BY SRI.S.EASWARAN,S.C.

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

pk

WP(C).No.7300 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1-TRUE COPY OF THE SANCTION TICKET NO.ZOE:CR:SME:118: 2013-2014 DATED 16.1.2014.

EXT.P2-TRUE COPY OF THE NOTICE UDER SECTION 13(2) OF THE SARFAESI ACT 2002 DATED 4.7.2014.

EXT.P3-TRUE COPY OF THE NOTICE ISSUED UNDER RULE 6(2) & 8(6) OF THE SECURITY INTEREST (ENFORCEMENT) RULES 2002 DATED 9.2.2015.

EXT.P4-TRUE COPY OF THE STATEMENT FROM 1.4.2013 TO 19.2.2015 WITH REGARD TO THE TERM LOAN.

EXT.P5-TRUE COPY OF THE STATEMENT FROM 1.4.2013 TO 19.2.2015 WITH REGARD TO THE OPEN CASH CREDIT.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7300 OF 2015

Dated this the 11th day of March, 2015

J U D G M E N T

The petitioner, who had availed of loans 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.P1 is the notice under Section 13 (2) of the SARFAESI Act. It is also submitted that the property is put for sale on 16.03.2015. 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 appearing on behalf of 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 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 amount outstanding from the petitioner to the respondent bank, is stated to be Rs.84,57,707/-. Accordingly, if the petitioner pays the aforesaid amount of Rs.84,57,707/-, together with accrued interest, in 12 equal and successive monthly instalments commencing from 27.03.2015, then the further proceedings for recovery of loan amounts from the petitioner shall be kept in abeyance.

(ii) The petitioner is permitted to approach the respondent bank with a request for regularisation of the open cash credit facility on payment of interest arrears, in the meanwhile. If the said proposal, is acceptable to the respondent bank, then the respondent bank shall work out the amounts to be paid by the petitioner, as a condition for regularisation of the said cash credit facility. In that event, the petitioner will be liable to pay only the reduced amounts, pursuant to this judgment.

(iii) 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