IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 7401 of 2015 (A)

PETITIONER(S):

K.KUNHAYAMUTTY,
AGED 44 YEARS, S/O.MUHAMMED,
KULANGARA HOUSE, VENGOOR,
PATTIKKAD, MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU.

RESPONDENT(S):

1. THE AUTHORISED OFFICER,
   STATE BANK OF TRAVANCORE, PERINTHALMANNA,
   MALAPPURAM DISTRICT- 679 322.

2. STATE BANK OF TRAVANCORE,
   REPRESENTED BY ITS BRANCH MANAGER,
   PERINTHALMANNA BRANCH,
   MALAPPURAM DISTRICT- 679 322.

BY SRI.K.JAYESH MOHANKUMAR, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1. COPY OF THE POSSESSION NOTICE ISSUED TO THE PETITIONER BY THE IST RESPONDENT DATED 19.8.14.

EXHIBIT P2. COPY OF THE NOTIFICATION ISSUED IN THE MADHYAMAM DAILY DATED 26.8.14.

EXHIBIT P3. COPY OF THE JUDGMENT DATED 3.9.14 IN WPC 22973/14 OF THIS HONOURABLE COURT.

EXHIBIT P4. COPIES OF THE RECEIPTS SHOWING THE PAYMENTS MADE BY THE PETITIONER TO THE BANK.

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.7401 of 2015

....

Dated this the 6th day of April, 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, had approached this Court on an earlier occasion, when the respondent bank had initiated steps for recovery of the loan amounts. By Ext.P3 judgment, this Court had directed the petitioner to pay the total outstanding amount of Rs.32 lakhs in 15 equal monthly instalments together with accrued interest. It was made clear that, if default was committed in respect of two consecutive instalments, then the recovery steps would be revived and the bank would be free to take steps against the petitioner for recovery. The period of 15 monthly instalments granted by that judgment will expire by December, 2015. It is during the pendency of that period, that the petitioner has preferred this writ petition, when, on account of circumstances beyond the control of the petitioner, he could not remit four instalments as directed by this Court in Ext.P3 judgment. While under normal circumstances, the present writ petition of the petitioner would not have been entertained, on account of the defaults already occassioned by the petitioner, I find that, in this case, the original period of payment by instalments has not expired and is available till December, 2015. Under the said circumstances, and taking note of the peculiar facts in this case and the financial hardship urged on behalf of the petitioner, I dispose the writ petition with the following directions:

i. The total amount outstanding from the petitioner to the respondent bank as of today is stated to be Rs.25,54,783/- together with accrued interest and other charges. Accordingly, if the petitioner pays the aforesaid amount of Rs.25,54,783/- in nine equal and successive monthly instalments commencing from 20.04.2015, then further proceedings for recovery shall be kept in abeyance.

ii. It is made clear that if the petitioner commits default in respect of any single instalment, 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.

iii. After payment of the 3rd instalment in pursuant to this judgment, it will be open to the petitioner to approach the respondent bank for the extension of any benefit if available under One Time Settlement Scheme. If the respondent bank decides to extend the benefit of One Time Settlement Scheme to the petitioner, then the petitioner shall be informed the same and the further liability of the petitioner shall be based on the decision taken by the respondent bank.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns