IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 7415 of 2015 (B)

PETITIONER :

BIJU CHACKO,
AGED 39 YEARS, S/O.CHACKO YOHANNAN,
MANALODIYIL HOUSE, KARIKODE PO
VAIKOM TALUK, KOTTAYAM DISTRICT,
PIN-686 610.

BY ADV. SRI.ALIAS M. CHERIAN

RESPONDENT(S) :
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1. THE AUTHORIZED OFFICER,
   UNDER SEURITIZATION AND RECONSTRUCTION
   OF FINANCIAL ASSET AND ENFORCEMENT OF SECURITY INTEREST ACT
   C/O. THE KADUTHURUTHY URBAN CO-OPERATIVE BANK LTD.
   H.O. KADUTHURUTHY, KOTTAYAM DISTRICT, PIN-686 604.

2. THE BRANCH MANAGER,
   THE KADUTHURUTHY URBAN CO-OPERATIVE BANK LTD.
   H.O.KADUTHURUTHY, KOTTAYAM DISTRICT, PIN-686 604.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 7415 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS :
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EXT P1 : **TRUE COPY OF SALE NOTICE DT. 30-01-2015.**

EXT P2 : **TRUE COPY OF TENDER NOTICE DT. 04-02-2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.7415 of 2015

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Dated this the 9th 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.P1 is the sale notice issued under the SARFAESI Act. It is submitted by counsel for the respondent bank that the sale is posted today. 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.Alias M.Cherian, the learned counsel appearing on behalf of the petitioner.

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.17,10,888/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.5,00,000/- on or before 27.03.2015 and the balance amount of Rs.12,10,888/- together with accrued interest in 10 equal and successive monthly instalments commencing from 20.04.2015, the recovery proceedings initiated against the petitioner 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