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. 7427 of 2015 (C)

PETITIONER:

DILEEP KUMAR,
S/O.SREEDHARA PANICKER,
AGED 49 YEARS, DEEPA NIVAS,
KANNAMANGALAM P.O,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S):
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1. **THE GENERAL MANAGER (THE AUTHORIZED OFFICER),**
   THE KOTTAKKAL CO-OPERATIVE URBAN BANK LTD.,
   HEAD OFFICE, KOTTAKKAL,
   MALAPPURAM DISTRICT, PIN-676 503.

2. **THE BRANCH MANAGER,**
   THE KOTTAKKAL CO-OPERATIVE URBAN BANK LTD.,
   VENGARA BRANCH,
   MALAPPURAM DISTRICT, PIN-676 304.

BY SRI.DEVAPRASANTH.P.J., SC

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

mbr/

WP(C).No. 7427 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT P1 :	TRUE COPY OF THE LOAN PASSBOOK OF THE PETITIONER ISSUED BY THE 2ND RESPONDENT.
EXT P2 :	TRUE COPY OF THE STATEMENT OF ACCOUNTS OF THE LOAN AVAILED BY THE PETITIONER, FOR THE PERIOD FROM 13-02-2007 TO 13-02-2015.
EXT P3 :	TRUE COPY OF THE SALE NOTICE ISSUED BY THE FIRST RESPONDENT DATED 06-02-2015.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.7427 of 2015 (C)

...

Dated this the 11th day of March, 2015

JUDGMENT

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', against the petitioner. Ext.P3 is the sale notice issued to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent bank for recovery of the loan amounts.

2. The respondent Bank has a defenite case that, the property that was offered by the petitioner as security for the loan has since been sold by the petitioner without informing the respondent Bank of the same.

3. I have heard Sri.Babu S.Nair, the learned counsel for the petitioner and Sri.Devaprasanth P.J., the learned Standing counsel appearing for the respondents.

4. 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.9,93,493/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.9,93,493/- together with accrued interest in three equal and successive monthly installments commencing from 27.03.2015, 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/