IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No.7528 of 2015 (M)

PETITIONER:

MUHAMMED ALI. A,AGED 50 YEARS,
S/O.S.K.ABOOBACKER HAJI,PROPRIETOR,
M/S.ONE STAR TRADING,SHAHEERA MANZIL,
PERUMBA,PAYYANUR,KANNUR,PIN:670 307.

BY ADVS.SRI.C.ANILKUMAR (KALLESSERIL)
SRI.C.Y.VINOD KUMAR

RESPONDENTS:

1. **THE REGIONAL MANAGER,**
   UNION BANK OF INDIA,IST FLOOR,
   KSHB COMPLEX,VIKAS NAGAR,
   EAST HILL ROAD,KOZHIKODE-673006.

2. **AUTHORIZED OFFICER,UNION BANK OF INDIA,**
   REGIONAL OFFICE,IST FLOOR,KSHB COMPLEX,
   VIKAS NAGAR,EAST HILL ROAD,KOZHIKODE-673006.

3. **THE BRANCH MANAGER,UNION BANK OF INDIA,**
   PAYYANNUR BRANCH,KANNUR-670307.

BY SRI.A.S.P.KURUP,SC,UBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.7528 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE NOTICE DATED 1.7.2014 ISSUED BY THE 2ND RESPONDENT DIRECTING THE PETITIONER TO PAY AN AMOUNT OF RS.79,48,972.09/-.

EXHIBIT P2: TRUE COPY OF THE NOTICE DATED 1.7.2014 ISSUED BY THE 2ND RESPONDENT DIRECTING THE PETITIOENR TO PAY AN AMOUNT OF RS.10,48,835/-.

EXHIBIT P3: TRUE COPY OF THE NOTICE DATED 10.09.2014 ISSUED BY THE 2ND RESPONDENT TAKING POSSESSION OF THE PROPERTY OF THE PETITIONER.

EXHIBIT P4: TRUE COPY OF THE NOTICE DATED 10.9.2014 ISSUED BY THE 2ND RESPONDENT TAKING POSSESSION OF THE PROPERTY OF THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.
==
W.P.(C). No. 7528 of 2015
==
Dated this the 13th day of March, 2015

JUDGMENT

The petitioner, who had availed a cash credit facility and also a housing 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. Exts.P3 and P4 are the possession notices issued to the petitioner. It is stated that the respondent bank subsequently took possession of the secured asset.

2. I have heard Sri.C.Anilkumar Kaleesseril, the learned counsel appearing on behalf of the petitioner and also Sri.ASP Kurup, the learned Standing Counsel, appearing for 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 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.98,00,000/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.20,00,000/- on or before 27.03.2015, and the remaining amount of Rs.78,00,000/-, together with accrued interest, in eight equal and successive monthly instalments commencing from 25.04.2015; then, the recovery steps initiated against him by the respondent bank shall be kept in abeyance.

II. It is made clear that, on the petitioner paying the 1st installment of Rs.20,00,000/-, the respondent Bank will permit him to occupy the property in question, subject to the petitioner furnishing an undertaking before the respondent Bank that on commission of any default with regard to the conditions in the judgment, he will immediately handover possession of the property to the respondent Bank.

III. In the meanwhile, the respondent bank shall permit the petitioner and his family, to take out articles of daily use, from the secured asset, the possession of which has been taken over by the respondent.

IV. It is made clear that, if the petitioner commits a default in respect of any of the installments, 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das