IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 7592 of 2015 (Y)

PETITIONER(S):

VIJAYAN, AGED 54,
S/O. PONNAYYAN, ELANKATHU VEEDU, PARUTHIPPARA
KOOTTAMALA P.O.

BY ADV. SRI.R.T.PRADEEP

RESPONDENT(S):
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1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY MINISTRY OF FINANCE,
NEW DELHI 110 001.

2. STATE OF KERALA
REPRESENTED BY THE SECRETARY
DEPARTMENT OF CO-OPERATION SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

3. AUTHORISED OFFICER,
THE THIRUVANANTHAPURAM DISTRICT CO-OPERTIVE BANK
LTD HEAD OFFICE,KIZHAKKEKOTTA,
THIRUVANANTHAPURAM - 23.

R1 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 & R3 BY ADV. SRI.T.R.HARIKUMAR, SC, THIRUVANANTHAPURAM
DIST.CO.OP.BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD/

WP(C).No. 7592 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 - TRUE COPY OF RECEIPT DATED 13.11.13

EXHIBIT P2 - TRUE COPY OF NOTICE DATED 09.2.15.

EXHIBIT P3 - TRUE COPY OF NOTIFICATION DATED 28.1.03.

EXHIBIT P4 - TRUE COPY ORDER DATED 10.5.13 IN UNNUMBERED SLP 2013 IN C.C. 10243/2013.

EXHIBIT P5 - TRUE COPY OF INTERIM ORDER IN W.P.(C) 799/2014 DATED 26.8.14 BY SUPERME COURT OF INDIA.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.7592 of 2015

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Dated this the 25th 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.P2 is the sale notice issued by the respondent bank. 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 for the respondent bank.

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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.1,77,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,77,000/-, together with accrued interest, in eight equal and successive monthly instalments commencing from 31.04.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner by the respondent bank 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