IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No.7600 of 2015 (Y)

PETITIONER:

MANOJ K.N,MELATHINAL HOUSE,
EDANADU P.O.,PALA,KOTTAYAM.

BY ADV.SMT.E.V.MOLY

RESPONDENTS:
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1. **THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD,**
REPRESENTED BY ITS BRANCH MANAGER.

2. **THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD,**
DISTRICT CO-OPERATIVE BANK LTD,POST BOX NO.140,
KOTTAYAM,KERALA,REPRESENTED BY ITS AUTHORIZED OFFICER.

R1,R2 BY SRI.SUNIL CYRIAC,SC,DIST.CO-OP,BANK,KTM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.7600 of 2015 (Y)

APPENDIX

PETITIONER'S EXHIBITS:
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EXHIBIT-P1:THE TRUE COPY OF THE POSSESSION NOTICE DATED 29/1/14 ISSUED UNDER SECTION 13(4) OF THE SARFAESI ACT.

EXHIBIT-P2:THE TRUE COPY OF THE SALE NOTICE DATED 16/2/2015.

EXHIBIT-P3:THE TRUE COPY OF THE ADV.COMMISSIONER'S NOTICE 25/1/14.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.7600 OF 2015 (Y)

Dated this the 10th 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 possession notice issued to the petitioner under Section 13(4) of the SARFAESI Act and Ext.P2 is the sale notice issued to the petitioner. 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 for the petitioner as also the learned Standing counsel appearing 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 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 overdue amount, in respect of the loan, is stated to be Rs.4,29,675/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.1,00,000/- on or before 31.3.2015 and the balance amount of Rs.3,29,675/- together with accrued interest in four equal and successive monthly installments commencing from 20.4.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.
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> (ii) 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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp