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. 7612 OF 2015 (B)

PETITIONER:

SURESH KUMAR, AGED 48 YEARS,
S/O. MACILLAMONY, M.S.K COTTAGE, KAKKAMOOLA
KALLIYOOR P.O., THRIUVANANTHAPURAM DISTRICT.

BY ADV. SRI.R.GOPAN

RESPONDENT(S):

1. THE BRANCH MANAGER
   THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK,
   KALLIYOOR BRANCH, KALLIYOOR P.O., THRIUVANANTHAPURAM.

2. THE AUTHORISED OFFICER
   THRIUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK
   HEAD OFFICE, THIRUVANANTHAPURAM.

R1 & R2 BY ADV. SRI.T.R.HARIKUMAR, SC

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

AS

WP(C).NO. 7612 OF 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS :

P1 - PHOTOCOPY OF THE RELEVANT PAGES OF PASS BOOK ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

P2 - PHOTOCOPY OF THE STATEMENT FROM 09.5.11 TO 01.6.13 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER DATED 17.3.14.

P3 - PHOTOCOPY OF THE NOTICE DATED 09.2.15 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A. TO JUDGE

AS

A.K.JAYASANKARAN NAMBIAR, J.

...

W.P.(C) No.7612 of 2015 (B)

...

Dated this the 25th day of March, 2015

JUDGMENT

The petitioner, who had availed of a consumption loan from the 1st 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. I have heard Sri.R.Gopan, the learned counsel for the petitioner and Sri.T.R.Harikumar, the learned Standing counsel appearing for the respondents.

3. 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 overdue amount 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 availed by the petitioner is stated to be Rs.3,73,400/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.3,73,400/- together with accrued interest, in eight equal and successive monthly instalments commencing from 10.04.2015, and continues to pay the regular monthly installments as per the original loan schedule, then, the recovery steps initiated against him 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 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

AMV/25/03/