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. 7715 of 2015 (L)

PETITIONER :

GOPALA KRISHNAN NAIR, AGED 63 YEARS,
S/O.VISWANATHAN PILLA,
PROPRIETOR M/S.SREE SAI ENTERPRISES, IX/325 LEO,
NINAN KUNNU, PARAYATHUKONAM P.O., ATTINGAL.

BY ADV. SRI.S.SOMAN

RESPONDENT :

STATE BANK OF INDIA,
REPRESENTED BY ITS CHIEF MANAGER (AUTHORISED OFFICER),
SMALL & MEDIUM ENTERPRISES, CITY CREDIT CENTRE,
3RD FLOOR, SANGAMAM, GAS HOUSE JUNCTION,
PALAYAM, THIRUVANANTHAPURAM - 695 001.

BY SRI.M.JITHESH MENON, SC

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

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WP(C).No. 7715 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: PHOTOCOPY OF DISCHARGE CARD DATED 6.6.2014 OF THE MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM.

EXT.P-2: PHOTOCOPY OF THE NOTICE DATED 19.3.2014 OF THE RESPONDENT

EXT.P-3: PHOTOCOPY OF THE POSSESSION NOTICE OF RESPONDENT DATED 29.5.2014

EXT.P-4: PHOTOCOPY OF THE NOTICE DATED 4.3.2015 OF THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.7715 of 2015 (L)

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Dated this the 11th day of March, 2015

JUDGMENT

The petitioner, who had availed of an agricultural loan from the respondent Bank, defaulted in re-payment 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 notice issued under Section 13(4) of the SARFAESI Act to the petitioner in that regard. Ext.P2 is the copy of the notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Thiruvanathapuram, to take possession of the immovable property that was offered as security to the respondent Bank, for the loan availed by the petitioner. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.S.Soman, learned counsel appearing for the petitioner and Sri.M.Jithesh Menon, learned Standing counsel appearing for the respondent.

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 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 to the respondent Bank is stated to be Rs.6,91,910/-, together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.6,91,910/-, together with accrued interest in six equal and successive monthly installments commencing from 20.04.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts 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/12/03/