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. 7753 OF 2015 (T)

PETITIONER(S):

M.A.OLVIN, AGED 47,
SON OF MR.ANTONY FERNADAZ, MALIYEKKAL HOUSE
KAIPATTOOR, KOTTAMAM ROAD, KALADY (PO)
ERNAKULAM DISTRICT, PIN-683 574.

BY ADVS.SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY
SRI.M.M.SHAJAHAN

RESPONDENT(S):

1. BANK OF INDIA
HEAD OFFICE, STAR HOUSE, C-5
"G" BLOCK, BANDRA KURLA COMPLEX, BANDRA (EAST)
MUMBAI 400051 REPRESENTED BY ITS MANAGING DIRECTOR.

2. AUTHORISED OFFICER/BRANCH MANAGER
BANK OF INDIA, KALADY BRANCH, KRISHNA TOWERS
VII/753-A, M.C.ROAD, KALADY (PO)
ERNAKULAM, PIN-683 574.

R1&2 BY ADV. SRI.N.P.SETHU

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

WP(C).NO. 7753 OF 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1- COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT 2002 ISSUED BY THE 2ND RESPONDENT DATED 21-05-2014.

EXT.P2 - COPY OF THE POSSESSION NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DT.14-11-2014.

EXT.P3- COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER, DEMANDING VACANT POSSESSION OF PETITIONER'S RESIDENTIAL HOUSE

RESPONDENT(S)' EXHIBITS:NIL

//TRUE COPY//

P.A. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.7753 of 2015

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Dated this the 11th day of March, 2015

<u>J U D G M E N T</u>

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 notice issued under Section 13 (2) of the SARFAESI Act. Ext.P2 is the possession notice issued by the 2nd respondent 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 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.50,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.50,000/- together with accrued interest in seven equal and successive monthly instalments commencing from 25.03.2015, and continues to keep up 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