IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 8055 of 2015 (F)

PETITIONER:

JAYABENSAM.A.V, S/O.ASARI,
AGED 40 YEARS, JAYA COTTAGE,
MUTTACHAL, VELLARADA P.O,
NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENT:

NEYYATTIKARA CO-OPERATIVE
URBAN BANK LTD NO. 931,
REPRESENTED BY ITS AUTHORISED
OFFICER/MANAGER, NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT - 695 001.

BY ADV. SRI.R.T.PRADEEP, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 8055 of 2015 (F)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: **TRUE COPY OF THE LOAN PASS BOOK ISSUED BY THE RESPONDENT.**

EXHIBIT P2: **TRUE COPY OF THE ORDER IN MC.NO. 1264/14 DATED 2.12.14 ON THE FILE OF CJM COURT, THIRUVANANTHAPURAM.**

EXHIBIT P3: **TRUE COPY OF THE WRITTEN REQUEST SUBMITTED BY PETITIONER SEEKING INSTALMENT FACILITY.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 8055 of 2015

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Dated this the 13th day of March, 2015

JUDGMENT

The petitioner, who had availed 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 order issued by the Chief Judicial Magistrate Court, Thiruvananthapuram. 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.G.Sudheer, the learned counsel appearing on behalf of the petitioner as also Sri.R.T.Pradeep, the learned Standing Counsel appearing on behalf of 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 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. 1,71,885/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of ₹Rs. 1,71,885/- together with accrued interest in six equal and successive monthly installments commencing from 27.03.2015, and continues to keep up the regular installment payments 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

das