IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

WP(C).No.8372 of 2015 (V)

PETITIONER:

SALIM.C.Y,AGED 49 YEARS,S/O.YOUSUF,CHENTHARA HOUSE,
ALLAPRA P.O,PERUMBAVOOR,ERNAKULAM DISTRICT.

BY ADVS.SRI.C.A.NAVAS
SRI.T.K.SASIKUMAR
SRI.P.A.SHAJI SAMAD
SRI.C.J.SOLOMAN
SMT.E.G.AMBILY

RESPONDENTS:
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1. THE BRANCH MANAGER,THE SOUTH INDIAN BANK LTD,
PERUMBAVOOR BRANCH,ERNAKULAM DISTRICT,PIN- 683542.

2. THE CHIEF MANAGER,REGIONAL OFFICE,MUVATTUPUZHA,
ERNAKULAM DISTRICT-683001.

BY SRI.GEORGE VARGHESE,SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

pk

WP(C).No.8372 of 2015 (V)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: THE PHOTOSTAT COPY OF THE DEMAND NOTICE NO BR/JJ/GEN/60/14-15 DATED 27-12-2014.

EXHIBIT P2: THE PHOTOSTAT COPY OF THE RELEVANT PAGES OF ACCOUNT STATEMENT FROM 19-11-2008 TO 11-03-2015 DATED 11-03-2015.

EXHBIIT P3: THE PHTOOSTAT COPY OF DEMAND NOTICE NO.BR/GEN/97/14-15 DATED 21-01-2015.

EXHIBIT P4: THE PHTOOSTAT COPY OF THE GUARANTEE INVOCATION LETTER NO.BR/GEN/98/14-15 DATED 21-01-2015.

EXHIBIT P5: THE PHTOOSTAT COPY OF THE DEMAND NOTICE UNDER SECTION 13(2) OF THE SARFAESI ACT 2002 DATED 12-02-2012.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.8372 of 2015

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Dated this the 17th day of March, 2015

J U D G M E N T

The petitioner, who had availed of a term loan and a cash credit facility 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.P5 is the demand notice under Section 13 (2) of the SARFAESI Act. 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 amount outstanding from the petitioner to the respondent bank in respect of the cash credit facility is stated to be Rs.50,54,467/- together with accrued interest. Similarly, the overdue amount in respect of the term loan is stated to be Rs.11,29,370/- together with accrued interest. Accordingly, if the petitioner pays the overdue amount in respect of the term loan of Rs.11,29,370/- together with accrued interest in four equal and successive monthly instalments commencing from 30.03.2015 and continues to keep up the regular instalments as per the original loan schedule, then further proceedings for recovery in respect of the said loan shall be kept in abeyance.

(ii) As regards the cash credit facility availed by the petitioner, if the petitioner pays the outstanding liability of Rs. 50,54,467/- together with accrued interest in 12 equal successive monthly instalments commencing from 30.03.2015, then further proceedings for recovery in respect of the said loan shall be kept in abeyance.

(iii) 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