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. 8429 of 2015 (C)

PETITIONER(S):

T.R.SOMAN AGED 54 YEARS, S/O. RAMAN
REPRESENTED THROUGH HIS NEXT FRIEND WIFE
SMT. GEETHA SOMAN, AGED 46 YEARS
SAJITH BHAVAN, NEDIYAKALA, ELAVUMTHITTA PO
KOZHENCHERRY, PATHANAMTHITTA DISTRICT - 689625

BY ADV. SRI.SINU.G.NATH

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
THE DEFENDANTS CHIEF MANAGER (ADVANCES),
STATE BANK OF TRAVANCORE, REGIONAL OFFICE
KIDARATHIL CHRIS TOWER, COLLEGE ROAD
PATHANAMTHITTA - 689645

2. THE MANAGER, STATE BANK OF TRAVANCORE,
MURUPPEL BUILDINGS, ELAVINTHITTA BRANCH
ELAVINTHITTA PO, PATHANAMTHITTA DISTRICT
PIN - 689625

R BY SRI.R.S.KALKURA, STANDING COUNSEL,
STATE BANK OF TRAVANCORE

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

WP(C).No. 8429 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1	**TRUE COPY OF THE IDENTITY CARD OF THE PETITIONER**
EXT.P2	**TRUE COPY OF THE MEDICAL CERTIFICATE DT.27.11.2014**
EXT.P3	**TRUE COPY OF THE STANDING DISABILITY CERTIFICATE ISSUED TO THE SON OF THE PETITIONER.**
EXT.P3(a)	**TRUE COPY OF THE IDENTITY CARD ISSUED TO THE SON OF THE PETITIONER BY THE SOCIAL WELFARE DEPT.**
EXT.P4	**TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER UNDER SEC.13(2) OF THE SARFAESI ACT.**
EXT.P5	**TRUE COPY OF THE PASSBOOK OF THE PETITIONER**
EXT.P6	**TRUE COPY OF THE RECEIPT DT.30.6.2011 SHOWING REPAYMENT TO THE LOAN ACCOUNT.**
EXT.P6(a)	**TRUE COPY OF THE RECEIPT DT.14.07.2011 SHOWING REPYAMENT TO THE LOAN ACCOUNT.**
EXT.P6(b)	**TRUE COPY OF THE RECEIPT DT.15.07.2011 SHOWING REPYAMENT TO THE LOAN ACCOUNT.**
EXT.P6(c)	**TRUE COPY OF THE RECEIPT DT.22.09.2011 SHOWING REPYAMENT TO THE LOAN ACCOUNT.**
EXT.P6(d)	**TRUE COPY OF THE RECEIPT DT.20.10.2011 SHOWING REPYAMENT TO THE LOAN ACCOUNT.**
EXT.P7	**TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSION.**
EXT.P8	**TRUE COPY OF THE ORDER IN WP(C) 984/15.**

RESPONDENT'S EXHIBITS:
-------------------------------------- **NIL**

// True copy //

PA to Judge

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A.K.JAYASANKARAN NAMBIAR, J.
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W.P.(C). No. 8429 of 2015
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Dated this the 17th day of March, 2015

JUDGMENT

The petitioner, who is represented in these proceedings by his wife, had availed a loan from the respondent bank and 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.P4 is the notice issued to the petitioner under Section 13(2) of the SARFAESI Act. Ext.P7 is the notice issued by the Advocate Commissioner pursuant to the direction of the Chief Judicial Magistrate Court, Pathanamthitta. 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.Sinu G.Nath, the learned counsel appearing on behalf of the petitioner and also Sri.R.S.Kalkura, the learned Standing Counsel appearing on behalf of the respondents.

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.2,11,436/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.2,11,436/- together with accrued interest in ten equal and successive monthly installments commencing from 30.03.2015, 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

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