IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 8530 of 2015 (M)

PETITIONER:

BIJU THOMAS P.
PAREPOTTAYIL HOUSE, EZHAKKARANAD NORTH PO
MUVATTUPUZHA ERNAKULAM 682308

BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.P.RAHUL

RESPONDENTS:

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1. ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD.
KOLENCHERRY BRANCH
KOLENCHERRY 682311 REPRESENTED BY ITS BRANCH MANAGER

2. BRANCH MANAGER,
ERNAKULAM DISTRICT CO-OPERATIVE BANK LTD
KOLENCHERY BRANCH, KOLENCHERRY 682311

BY SMT.I.SHEELA DEVI, SC, ERNAKULAM DIST.CO.OP.BANK LTD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8530 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1:TRUE COPY OF THE SANCTION ORDER ISSUED BY THE RESPONDENT DATED 18.11.2011

EXHIBIT P2:TRUE COPY OF THE LOAN ACCOUNT STATEMENT OF THE PETITIONER FOR THE PERIOD BETWEEN 24.11.2011 TO 30.9.2014 DATED 16.3.2015

EXHIBIT P3: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT UNDER SARFAESI ACT DATED 1.8.2014

EXHIBIT P4: TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT FOR THE SALE OF PETITIONERS PROPERTY DATED 1.11.2014

EXHIBIT P5:TRUE COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE RESPONDENT DATED 16.3.2015

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY// **P.A. TO JUDGE**

smv

A.K. JAYASANKARAN NAMBIAR, J.

W.P.(C) No.8530 of 2015

Dated this the 20th day of March, 2015

JUDGMENT

The petitioner, who had availed of a 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.P4 is the sale notice issued under the SARFAESI Act to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.K.I.Mayankutty Mather, the learned counsel appearing for the petitioner and Sri.I.Sheela Devi, learned Standing counsel appearing for 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 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 from the petitioner to the respondent bank is stated to be Rs.3,06,000/-, together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.3,06,000/-, together with accrued interest in four equal and successive monthly installments commencing from 31.03.2015 and continues to pay the regular monthly installments as per the orginal loan schedule, 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

smv

The term “total amount outstanding” appearing in the 3rd and 4th lines of paragraph 3 and in the first line of direction No.(i) of the judgment dated 20/03/2015 in W.P.(C) No.8530/2015 is corrected as “total overdue amount' as per order dated 10.07.2015 in I.A 9128/2015.

Sd/-
Registrar (Judicial)