IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 8551 of 2015 (T)

PETITIONER(S):

KAMALAHASAN,
AGED 42 YEARS, S/O.KUNJIRAMAN,
UMMINIYAMKANDIYIL HOUSE, AROOR.P.O.,
PURAMERI PANCHAYATH, PURAMERI VILLAGE,
VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENT(S):

1.KOZHIKODE DISTRICT CO-OPERATIVE BANK LIMITED,
REPRESENTED BY THE AUTHORISED OFFICER/SENIOR,
KALLAI ROAD, CALICUT, PIN-673 002.

2.THE MANAGER, THE KOZHIKODE DISTRICT CO-OPERATIVE
BANK LTD., ORKATTERI BRANCH, ORKATTERI P.O.,
VADAKARA VIA, KOZHIKODE DISTRICT. PIN 673 501.

R BY SRI.R.SUDHISH, SC, KOZHIKODE DIST.CO.OP. BANK, LTD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).NO.8551/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE NOTICE DATED 17.12.2013 OF THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P2: COPY OF THE LOAN ADALATH NOTICE DATED 12.01.2015 ISSUED TO THE PETITIONER.

EXT.P3: COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER SRI.P.R.RAJESH DATED 7.3.2015 INTIMATING THE DATE OF PHYSICAL POSSESSION OF THE RESIDENCE OF THE PETITIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8551 OF 2015 (T)

Dated this the 18th day of March, 2015

J U D G M E N T

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 to the petitioner under Section 13(2) of the SARFAESI Act and Ext.P2 is the notice issued by the Advocate Commissioner pursuant to the direction issued by the Chief Judicial Magistate Court, Kozhikode. 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 for the petitioner as also the learned Standing counsel appearing 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 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.2,78,191/- together with accrued interest. Accordingly, if the petitioner pays the above amount of Rs.2,78,191/- together with accrued interest in twelve equal and successive installments commencing from 30.3.2015, then the further proceedings including proceedings pursuant to Ext.P3 initiated against him by the respondent bank shall be kept in abeyance.
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> (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.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp