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. 8581 of 2015 (W)

PETITIONER(S):

BIJU,S/O.GOPALAN,
THEERTHAM, PALAYAMKUNNU.P.O.,
ELAKAMON, VARKALA. PIN: 695 146.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT(S):

INDUSIND BANK LTD., RAMA BHAVAN,
PARUTHELIPALAM, TOLL JUNCTION, EDAPALLY,
KOCHI - 682 024 (VEHICLE FINANCE DIVISION),
REPRESENTED BY AUTHORISED OFFICER.

R1 BY ADV. SRI.G.HARIHARAN, SC

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.8581/2015

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE RELEVANT PORTION OF THE R.C.BOOK.

EXT.P2: COPY OF THE NOTICE DATED 13.3.2015 ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8581 OF 2015 (W)

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. It is pointed out that the respondent bank has also taken over possession of the vehicle of the petitioner, which was the secured asset. 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 overdue amount, in respect of the loan, is stated to be Rs.1,00,000/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.30,000/- on or before 25.3.2015, and pays the balance amount of Rs.70,000/- together with accrued interest in two equal and successive monthly installments commencing from 20.4.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him by the respondent bank shall be kept in abeyance.

(ii) It is made clear that on the petitioner paying the first installment of Rs.30,000/- on or before 25.3.2015, the respondent bank shall handover possession of the vehicle to the petitioner.

(iii) It is further 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