IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 1ST DAY OF APRIL 2015/11TH CHAITHRA, 1937

WP(C).No. 8605 of 2015 (A)

PETITIONER :

JAYALAKSHMI, AGED 58 YEARS,
W/O.SIVASANKARAN NAIR @ BALAN MENON, KANAKA NIVAS,
CHAKKUNGAL HOUSE, LOKAMASWARAM, KODUNGALLUR P.O.,
THRISSUR DISTRICT - 680 664.

BY ADV. SRI.V.A. AJAIKUMAR

RESPONDENTS :
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1. **IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD.NO.55**
   TANA SOUTH, IRINJALAKUDA - 680 121
   REPRESENTED BY ITS GENERAL MANAGER.

2. **THE AUTHORISED OFFICER,**
   IRINJALAKUDA TOWN CO-OPERATIVE BANK LTD. NO. 55
   TANA SOUTH, IRINAJALAKUDA - 680 121.

R1 & R2 BY ADV. SRI.DEVAPRASANTH.P.J.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

bp

WP(C).No. 8605 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE ESOPHAGODUODENOSCOPY REPORT DATED 24/01/2013 ISSUED FROM SREE NARAYANA INSTITUTE OF MEDICAL SCIENCES, CHALAKA, NORTH KUTHIYATHODU P.O., ERNAKULAM.

EXT.P2: TRUE COPY OF THE LETTER DATED 28/02/2013 ISSUED FROM AMRITHA INSTITUTE OF MEDICAL SCIENCES TO DR. PRASAD K, ASSOCIATE PROFESSOR OF SREE NARAYANA INSTITUTE OF MEDICAL SCIENCES, NORTH KUTHIATHODU, ERNAKULAM.

EXT.P3: TRUE COPY OF THE CORONARY ANGIOPLASTY REPORT DATED 13/08/2012 ISSUED FROM JUBILEE MISSION MEDICAL COLLAGE HOSPITAL, THRISSUR.

EXT.P4: TRUE COPY OF DEMAND NOTICE NO. 113/101-2014/MTL 17 DATED 30/01/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P5: TRUE COPY OF SALE NOTICE NO. 113/101-2014/MTL17S DATED 18/02/2015 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 23/02/2015 SUBMITTED BY THE PETITIONER TO THE CHAIRMAN OF 1ST RESPONDENT BANK.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.8605 of 2015

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Dated this the 1st day of April, 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. When the matter came up for admission, this Court directed the petitioner to pay an amount of Rs.1,00,000/- to the respondent bank on or before 30.03.2015. It is pointed out by counsel for the respondents that although, the petitioner had made the said payment before the date stipulated, the payment was made into petitioner's savings account with the respondent bank and not into the loan account. I take note, however, of the fact that the petitioner had remitted the payment of Rs.1,00,000/- into his savings account before the stipulated date.

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 required to be paid by the petitioner for regularising the loan is stated to be Rs.4,70,916/- together with accrued interest. Accordingly, if the petitioner effects the payment of Rs.1,00,000/- referred to above, to the loan account of the petitioner with the respondent bank, forthwith, and then pays the remaining overdue amount of Rs.3,70,916/- together with accrued interest in ten equal and successive monthly instalments commencing from 20.04.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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