IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 8611 of 2015 (B)

PETITIONER :

M.S. SAIGAL, AGED 37 YEARS
S/O.K.N.SURENDRAN, SAIGAL BHAVAN, PARANTHAL P.O., ADOOR.

BY ADVS.SRI.MANSOOR B.H.
SRI.S.SHAJAHAN (ADOOR)

RESPONDENT :

AUTHORISED OFFICER
PATHANAMTHITTA DISTRICT CO-OPERATIVE BANK
PATHANAMTHITTA- 689645

BY ADVS. SRI.ARUN B.VARGHESE
SRI.V.PHILIP MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 8611 of 2015 (B)

APPENDIX

PETITIONERS' EXHIBITS :
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EXT. P1: **TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT TO THE PETITONER UNDER SEC 13(12) OF SARFAESI ACT DATED 19.02.2015.**

RESPONDENT(S)' EXHIBITS : NIL
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//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No. 8611 of 2015 (B)

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Dated this the 24th day of March, 2015

JUDGMENT

The petitioner, who had availed of a consumption loan from the respondent Bank in the year 2010, 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.P1 is the possession notice issued under Section 13(2) of 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.B.H.Mansoor, the learned counsel appearing for the petitioner and Sri.Arun B.Varghese, 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 total overdue amount 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 housing loan is stated to be Rs.5,49,825/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.5,49,825/- together with accrued interest, in six equal and successive monthly instalments commencing from 31.03.2015, and continues to pay the regular monthly installments 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

AMV/24/03/