IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No. 8710 of 2015 (K)

PETITIONER:

MOHANAN T.K., AGED 55 YEARS,
S/O.KESAVAN NADAR, NO.TC 19/827(1), KURATTOOR,
"SNEHA NILAYAM", MUDAVAN MUGAL, POOJAPURA.P.O,
THIRUVANANTHAPURAM, KERALA, PIN-695 012.

BY ADVS.SRI.T.C.GOVINDA SWAMY
SMT.T.N.SREEKALA
SRI.K.JAYAKUMAR (RAVIPURAM)

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNEMNT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM. PIN-695 001

2. THE THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD,
THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING DIRECTOR-695 023

3. THE AUTHORIZED OFFICER(U/S.13(4) OF THE SURFASI ACT),
THE THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD,
THIRUVANANTHAPURAM.PIN-695 023

4. THE BRANCH MANAGER,
THE THIRUVANANTHAPURAM DISTRICT CO-OPERATIVE BANK LTD,
PALAYAM BRANCH, THIRUVANANTHAPURAM-695 023.

R1 BY SR GOVERNEMNT PLEADER SMT. SOBHA ANNAMMA EAPEN
R2 TO R4 BY ADV. SRI.T.R.HARIKUMAR, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 8710 of 2015 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	**TRUE COPY OF THE DECISION OF THE HON'BLE SUPREME COURT REPORTED IN 2001 SCC(L&S) 584.**
EXT.P2	**TRUE COPY OF THE LETTER BEARING NO.8216/2014 DATED NIL BEFORE THE DISTRICT LEGAL SERVICES AUTHORITY, THIRUVANANTHAPURAM.**
EXT.P3	**TRUE COPY OF THE ORDER OF THE HON'BLE LOK ADALAT DATED 6TH DECEMBER,2014 IN CASE NO.8216/2014**
EXT.P4	**TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE AUTHORIZED OFFICER OF THE RESPONDENT BANK PURPORTED TO BE UNDER SECTION13(4)**
EXT.P5	**TRUE COPY OF THE MAHAZAR PREPARED BY THE AUTHORIZED OFFICER(RESPONDENT NO.3) DATED 29.10.2014,PERTAINING TO THE PROPERTIES OF THIS PETITIONER WITH SY.NO.1956/3-4-1 IN TIRUMALA VILLAGE.**
EXT.P6	**TRUE COPY OF THE OP TICKET NO.7643 DATED 04.05.2011 OF THE GOVERNMENT AYURVEDA MEDICAL COLLEGE HOSPITAL, TRIVANDRUM.**
EXT.P6(A)	**TRUE COPY OF THE DISCHARGE CARD OF THE GOVERNMENT AYURVEDA MEDICAL COLLEGE HOSPITAL,TRIVANDRUM.**
EXT.P6(B)	**TRUE COPY OF THE DISCHARGE SUMMARY OF THE GOVERNMENT AYURVEDA MEDICAL COLLEGE HOSPITAL,TRIVANDRUM.**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C) No.8710 of 2015 (K)

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Dated this the 25th day of March, 2015

JUDGMENT

The petitioner, who had availed of a loan, from the 2nd 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 possession notice issued under Section 13(4) 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. I have heard Sri.T.C.Govindaswamy, the learned counsel for the petitioner and Sri.T.R.Harikumar, the learned Standing counsel appearing for the respondent Nos. 2 to 4.

3. On a consideration of the facts and circumstances of the case and also 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 amount outstanding in respect of the loan is stated to be Rs.2,45,000/- together with accrued interest. Accordingly, if the petitioner remits the said amount of Rs.2,45,000/- together with accrued interest in ten equal and successive monthly installments commencing from 10.04.2015, then, the recovery steps initiated against them 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/25/03/