IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 8752 of 2015 (T)

PETITIONER :

ARUN R.K., AGED 40 YEARS
S/O.KUNJUKRISHNAN PILLAI, KRISHNA BUILDING
VADEKKE KOTTUKKAL, KOTTUKAL P.O., ANCHAL
KOLLAM DISTRICT.

BY ADV. SRI.SYAM J. SAM

RESPONDENT :

AUTHORISED OFFICER,
FEDERAL BANK LTD., ANCHAL,
ANCHAL BRANCH, KOLLAM – 691 001.

BY ADVS. SRI.GEORGE VARGHESE (MANACHIRACKEL), SC
SMT.SALI P. MATHEW (MUNNAR)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 8752 of 2015 (T)

APPENDIX

PETITIONERS' EXHIBITS :

EXHBIIT P1 THE TRUE COPY OF THE NOTICE OF POSSESSION ISSUED BY THE ADVOCATE COMMISSIONER APPOINTED BY CJM, KOLLAM DT. 6.3.2015.

EXHIBIT P2 THE TRUE COPY OF THE STATEMENT OF ACCOUNT ISSUED BY THE RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.8752 of 2015

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Dated this the 30th 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 of the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court, Kollam, to take possession of the property. 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 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.3,23,414/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.3,23,414/- together with accrued interest in four equal and successive monthly instalments commencing from 20.04.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings for recovery of loan amounts from the petitioner 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