IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 8833 of 2015 (D)

PETITIONER(S) :

MANOJ N.T, AGED 40 YEARS,
NEDUMPURATH HOUSE, PARAMPUZHA P.O,
KOTTAYAM.

BY ADV. SMT.E.V.MOLY

RESPONDENT(S) :
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1. THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD., REPRESENTED BY ITS BRANCH MANAGER- 688 001.

2. AUTHORIZED OFFICER, THE KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD., DISTRICT CO-OPERATIVE BANK LTD., POST BOX NO.140, KOTTAYAM, KERALA- 688 001.

BY ADV. SRI.SUNIL CYRIAC, S.C

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 8833 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: THE TRUE COPY OF THE POSSESSION NOTICE 23.09.2013.

EXHIBIT P2: THE TRUE COPY OF THE SALE NOTICE DATED 11.02.2015.

RESPONDENT(S)' EXHIBITS
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

....

W.P.(C).No.8833 of 2015

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Dated this the 19th day of March, 2015

J U D G M E N T

The petitioner and his wife, who had availed of two loans 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 possession notice issued by the respondent bank. Ext.P2 is the sale notice issued by the respondent bank. In the writ petition, the petitioners impugn 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 amount outstanding from the petitioner and his wife, in respect of both the loans, is stated to be Rs.4,83,480/- together with accrued interest and other charges. Accordingly, if the petitioner pays an amount of Rs.75,000/- on or before 30.03.2015 and pays the balance amount of Rs.4,08,480/- in six equal and successive monthly instalments commencing from 20.04.2015, then further proceedings for recovery 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