IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 8868 of 2015 (G)

PETITIONER(S):

JAYANTHY P. KUMAR, AGED 47 YEARS,
W/O.LATE PRADEEP KUMAR, RESIDING AT S-2,
THULIP PINK APARTMENT, PALARIVATTOM P.O., ERNAKULAM,
COCHIN - 682 025.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT(S):

KERALA STATE CO-OPERATIVE BANK LTD.,
REPRESENTED BY ITS MANAGER, ERNAKULAM BRANCH,
PULLEPPADY JUNCTION, CHITOOR ROAD, ERNAKULAM,
COCHIN - 682 035.

BY SRI.GEORGE POONTHOTTAM, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 8868 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - TRUE COPY OF THE NOTICE NO.KSEB/EBR/LOANS/1192/2013-14 DATED 24-09-2014 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER

EXT.P2 - TRUE COPY OF THE RECEIPT DATED 31-01-2015 FOR RS.12,000/- REMITTED BY THE PETITIONER TO THE RESPONDENT BANK.

EXT.P3 - TRUE COPY OF THE NOTICE NO.ERO/202/SRE.860/9.522.16/EKM/1046/2014-15 DATED 16-02-2015 ISSUED BY THE RESPONDENT BANK TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 8868 of 2015

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Dated this the 20th day of March, 2015

JUDGMENT

The petitioner, who had availed 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.P3 is the sale notice issued to the petitioner under SARFAESI Act. 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 appearing on behalf of the respondents.

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 her to remit the balance amounts outstanding 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 loan, is stated to be Rs.1,21,024/- together with accrued interest. Accordingly, if the petitioner remits the aforesaid amount of Rs.1,21,024/- together with accrued interest in six equal and successive monthly installments commencing from 31.03.2015, and continues to keep up the regular installment payments as per the original loan schedule, then further proceedings including proceedings pursuant to Ext.P3 notice initiated against her 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, she will lose the benefit of this judgment and the respondent bank will be free to continue the recovery proceedings against her from the stage at which they presently stand.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das