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.9010 of 2015 (A)

PETITIONER:

MOHAMMED SHANOJ,AGED 37 YEARS,
S/O.M.V.ABDU,SHANOJ MANZIL,CHEMANNOOR P.O,
THRISSUR-679561.

BY ADV.SRI.RAJIT

RESPONDENTS:
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1. AUTHORIZED OFFICER,THE CORPORATION BANK,
GURUVAYUR BRANCH,GURUVAYUR,
CHAVAKKAD TALUK,THRISSUR DISTRICT-680101.

2. THE CORPORATION BANK,GURUVAYUR BRANCH,
GURUVAYUR-680101,REPRESENTED BY
THE BRANCH MANAGER.

BY SRI.S.B.PREMACHANDRA PRABHU,S.C

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

pk

WP(C).No.9010 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1-TRUE COPY OF THE NOTICE ISSUED BY THE RESPONDENT DTD. 30-9-2014 UNDER SEC.13(2) R/W SEC.13(3) OF THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002.

EXHIBIT P2-TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER TO THE PETITIONER DTD. 4-2-2015.

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9010 of 2015

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Dated this the 20th 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 issued under Section 13 (2) of the SARFAESI Act. Ext.P2 is the notice of the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court, Thrissur, to take possession of the vehicle. 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.5,17,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.5,17,000/- together with accrued interest in three equal and successive monthly instalments commencing from 30.03.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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