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. 9042 of 2015 (E)
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PETITIONER:
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SHAHUL HAMEED, AGED 55 YEARS,
AGED 55, S/O. ASANISA RAWTHER,
SHAAD MAHA, ATHIKATTU KULANGARA P.O.
NOORANAD, ALAPPUZHA DISTRICT.

BY ADVS.SRI.P.A.MOHAMMED SHAH
SRI.SOORAJ T.ELENJICKAL
SMT.P.M.MAZNA MANSOOR

RESPONDENT:
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THE AUTHORISED OFFICER, KERALA STATE CO-OPERATIVE BANK
KOLLAM BRANCH, WATER AUTHORITY BUILDING,
NEAR COLLECTORATE, KOLLAM - 691 013

BY SRI.GEORGE POONTHOTTAM, SC, KERALA STATE CO.OP BAN

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

**WP(C).No. 9042 of 2015**

**APPENDIX**

**PETITITIONER'S EXHIBITS:**

**P1 : THE TRUE COPY OF THE AUCTION NOTIFICATION ISSUED BY THE RESPONDENT DATED 18.02.2015.**

**P2 : THE TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER ON 16.03.2015.**

**RESPONDENT'S EXHIBITS: NIL**

**//TRUE COPY// P.A. TO JUDGE**

**smv**

**A.K.JAYASANKARAN NAMBIAR, J.**
**-------------------------------**
**W.P.(C) No.9042 of 2015**
**---------------------------------------------**
**Dated this the 20th day of March, 2015**

**JUDGMENT**

The petitioner, who had availed of a loan from the 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.P1 is auction sale notification. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. Heard Sri.Mohammed Shah, the learned counsel appearing for the petitioner and Sri.George Poonthottam, the learned Standing counsel appearing for 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 him to remit the total amount 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 amount outstanding from the petitioner to the respondent Bank is stated to be Rs.6,67,000/-, together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.1,00,000/- on or before 31.03.2015 and pays the balance amount of Rs.5,67,000/- in seven equal and successive monthly installments commencing from 30.04.2015, then, further proceedings including proceedings pursuant to Ext.P1 shall be kept in abeyance.

ii. On the petitioner paying the first installment of Rs.1,00,000/- on or before 31.03.2015, and making an application before the respondent Bank for extension of the benefit of an OTS Scheme or interest waiver, the Bank shall consider the said application and intimate the petitioner of its decision. If the decision of the bank results in any reduced liability to the petitioner, then, the petitioner will be obliged to discharge only the reduced liability pursuant to this judgment.

iii. 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**

//true copy// P.A to Judge

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