IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9066 of 2015 (G)

PETITIONER :

JOHNSON, AGED 49 YEARS
S/O. DEVASSIKKUTTY, KOODALYVEEDU, NENMANIKKARA VILLAGE
PUTHUKKAD VILLAGE, MUKUNDAPURAM TALUK
THRISSUR DISTRICT

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.R.ARUN KRISHNAN

RESPONDENT(S) :

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1. **THE AUTHORIZED OFFICER,**
   DISTRICT CO-OPERATIVE BANK,
   HEAD OFFICE, THRISSUR - 680 001

2. **DEVASSYKKUTTY, AGED 70,**
   S/O. LONAPPAN, KOODALYVEEDU,
   NENMANIKKARA VILLAGE
   PUTHUKKAD VILLAGE
   MUKUNDAPURAM THALUK,
   THRISSUR DISTRICT – 680 001.

3. **MARY, AGED 60,**
   W/O. DEVASSYKKUTTY, KOODALYVEEDU, NENMANIKKARA VILLAGE
   PUTHUKKAD VILLAGE, MUKUNDAPURAM THALUK
   THRISSUR DISTRICT – 680001.

R1 BY ADV. SRI.C.A.MAJEED, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 9066 of 2015 (G)

APPENDIX

PETITIONERS' EXHIBITS :

EXT.P1: A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER UNDER SECTION 13(4) RULE 9 OF THE ACT TO THE PETITIONER DATED 24.2.2015.

EXT.P2: A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE FIRST RESPONDENT TO THE SECOND RESPONDENT HEREIN DATED 24.2.2015.

EXT.P3: A TRUE COPY OF THE POSSESSION NOTICE ISSUED BY THE FIRST RESPONDENT TO THE THIRD RESPONDENT HEREIN DATED 24.2.2015

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.9066 OF 2015 (G)

Dated this the 23rd day of March, 2015

<u>J U D G M E N T</u>

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 SARFAESI Act, hereinafter referred to as the 'SARFAESI Act', to recover the loan amounts. Exts.P1, P2 and P3 are the possession notices issued to the petitioner, who is the borrower and the 2nd and 3rd respondents, who are the guarantors, to the loan. 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 for the petitioner as also the learned Standing counsel appearing 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 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 availed by the petitioner, is stated to be Rs.3,90,000/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.3,90,000/- together with accrued interest in six equal and successive installments commencing from 31.3.2015, and continues to keep up the regular installment payments as per the original loan schedule, then the further proceedings initiated against him 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, 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

prp