IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 9219 of 2015 (B)

PETITIONER(S):

CHAMMUNNI K.,AGED 69 YEARS,
S/O. LATE C. KUTTAN, 17/80-NORTH MANAPPULLY KAVU,
GARDEN AVENURE, KUNNATHURMEDU.P.O.,
PALAKKAD-678 013.

BY ADV. SRI.U.BALAGANGADHARAN

RESPONDENT(S):
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1. THE AUTHORISED OFFICER,
   UNDER SECURITISATION AND RECONSTRUCTION OF
   FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY
   INTEREST ACT 2002 INDIAN BANK, PALAKKAD BRANCH,
   PALAKKAD-678 001

2. THE CHIEF MANAGER, INDIAN BANK, PALAKKAD BRANCH,
   1ST FLOOR, MALABAR FORT, KANDATH COMPLEX,
   OFF. G.B. ROAD, PALAKKAD-678 001

R1 & R2 BY ADV.SRI.S.EASWARAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).NO.9219/2015

APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE LICENSE OF THE PETITIONER ISSUED BY THE PWD (ELECTRICAL).

P2 COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER ISSUED BY LAKSHMI HOSPITAL, PALAKKAD.

P3 COPY OF THE STATEMENT DATED 21/3/2015 SHOWING THE OUTSTANDING BALANCE TILL DATE.

P4 COPY OF THE NOTICE UNDER SECTION 13(2) DATED 13/1/2015.

P5 COPY OF THE POSSESSION NOTICE DATED 20/3/2015 ISSUED UNDER SECTION 13(4) ISSUED BY 1ST RESPONDENT.

RESPONDENT'S EXHIBITS NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9219 of 2015

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Dated this the 24th day of March, 2015

J U D G M E N T

The petitioner, who had availed of an overdraft facility 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.P5 is the possession notice issued under Section 13 (4) of the SARFAESI Act by the 1st respondent. 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 amount outstanding from the petitioner to the respondent bank is stated to be Rs.32,30,584/- together with accrued interest. Accordingly, if the petitioner pays an amount of Rs.2,30,584/- on or before 30.04.2015, and pays the balance amount of Rs.30,00,000/- together with accrued interest in 10 equal and successive monthly instalments commencing from 30.05.2015, 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