IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 9228 of 2015 (C)

PETITIONER:

K.UMMER FAROOKH, S/O.ADBUL KHADER,
AGED 42 YEARS,FATHIMA VILLA, KANACHERI,
CHAPPA, EACHUR, KANNUR - 670 591.
NOW RESIDING AT 108, KRISHNA 'B' WING,
JANGID COMPLEX, MEERA ROAD,
THANA DISTRICT, MUMBAI - 401 107.

BY ADVS.SRI.K.C.SANTHOSH KUMAR
SMT.K.K.CHANDRALEKHA

RESPONDENT(S):
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 001.
2. STATE BANK OF TRAVANCORE, REGIONAL OFFICE, REGION III, KANNUR, 3RD FLOOR, KVR TOWER, SOUTH BAZAR, KANNUR CIVIL STATION, KANNUR - 670 002 REPRESENTED BY ITS BRANCH MANAGER, MADAI PUTHIYANGADI BRANCH.

R1 BY GOVT. PLEADER SMT.SHOBHA ANNAMMA EAPPEN
R2 & 3 BY ADV. SRI.T.SETHUMADHAVAN (SR.)
R2 & 3 BY ADV. SRI.K.JAYESH MOHANKUMAR,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

AD/

WP(C).No. 9228 of 2015 (C)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: TRUE COPY OF THE RELEVANT PAGE OF MATHRUBHOOMI DAILY DATED 21.02.2015.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C). No. 9228 of 2015

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Dated this the 26th 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.P1 is the sale notice issued to the petitioner under Section 13(4) of the 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 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 outstanding amount, in respect of the loan, is stated to be Rs.48,25,000/- together with accrued interest. Accordingly, if the petitioner remits an amount of Rs.7,50,000/- on or before 31.03.2015 and remits the balance amount of Rs.40,75,000/- together with accrued interest in eight equal and successive monthly installments commencing from 30.04.2015, then the recovery steps 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.

(iii) I make it clear that it will be open to the respondent bank to accept the tenders pursuant to Ext.P1 notice and what is stayed by this Court in this judgment is only further proceedings pursuant to that.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

das