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. 9397 of 2015 (Y)

PETITIONER(S):

ARIFA, W/O.SHAJI, AGED 32 YEARS,
VAKKAYIL HOUSE, AYIRUR POST,
MALAPURAM.

BY ADVS.SRI.S.JIJI
SMT.SAIRA PHIROZ

RESPONDENT(S):

THE MANAGER,
MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
ERAMANGALAM BRANCH, MALAPPURAM DISTRICT.

2. THE AUTHORIZED OFFICER UNDER SARFAESI ACT,
(GENERAL MANAGER),
MALAPPURAM DISTRICT CO-OPERATIVE BANK LTD.,
MALAPPURAM.

BY ADV. SRI.E.S.M.KABEER

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

msv/

WP(C).No. 9397 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE ISSUED BY THE ADVOCATE COMMISSIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms**v/**

A.K.JAYASANKARAN NAMBIAR, J.

..

W.P.(C) No. 9397 of 2015 (Y)

..

Dated this the 24th day of March, 2015

JUDGMENT

The petitioner, who had availed of a housing loan from the 1st 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', against the petitioner. Ext.P1 is the notice, issued under the SARFAESI Act, by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate, Manjeri, to the petitioner in that regard. In the writ petition, the petitioner impugns the steps initiated by the respondent Bank for recovery of the loan amounts.

2. I have heard Sri.Jiji S., the learned counsel for the petitioner and Sri.E.S.M.Kabeer, the learned Standing counsel appearing for the respondents.

3. On a consideration of the facts and circumstances of the case and also 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 in respect of the housing loan is stated to be Rs.10,87,428/- together with accrued interest. Accordingly, if the petitioner pays the said amount of Rs.10,87,428/- together with accrued interest, in ten equal and successive monthly instalments commencing from 31.03.2015, then, the recovery steps initiated against the petitioner for recovery of the amounts outstanding to the 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.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

AMV/24/03/