IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 9465 of 2015 (G)

PETITIONER :

MRS.SREEJAYA J.,
W/O.ANIRUDHAN, AGED 45 YEARS
RESIDING AT DEVIGRIHAM, AYAPARAMBU
CHERUTHANA P.O., ALAPPUZHA DISTRICT
PIN - 690 583.

BY ADV. SRI.B.RENJITH KUMAR

RESPONDENT(S) :
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1. **HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED**
   REPRESENTED BY ITS MANAGER
   HDFC HOUSE RAVIPURAM JUNCTION,
   M.G ROAD, KOCHI - 682 015

2. **THE AUTHORISED OFFICER,**
   HOUSING DEVELOPMENT FINANCE CORPORATION LIMITED,
   REPRESENTED BY ITS MANAGER,
   HDFC HOUSE RAVIPURAM JUNCTION,
   M.G ROAD, KOCHI - 682 015.

R1 & R2 BY ADV. SMT.S.AMBILY, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Mn

WP(C).No. 9465 of 2015 (G)

<u>APPENDIX</u>

PETITIONERS' EXHIBITS :

EXHBIIT P1 NOTICE ISSUED UNDER SECTION`13(2) OF SARFAESI ACT TO THE PETITIONER ON 19-08-2014.

EXHBIIT P2 COPY OF THE CHEQUE SHOWING THE REMITTANCE OF RS.25,000/- OM 2-1-2015.

EXHIBIT P3 NOTICE FOR THE VACANT POSSESSION ISSUED BY THE ADVOCATE COMMISSION ON 12-03-2015.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9465 of 2015

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Dated this the 30th day of March, 2015

J U D G M E N T

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 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 under Section 13 (2) of the SARFAESI Act. Ext.P3 is the notice of the Advocate Commissioner appointed by the Chief Judicial Magistrate's Court, Alappuzha, to take possession of the secured assets. 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 overdue amount in respect of the loan availed by the petitioner is stated to be Rs.73,776/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.73,776/- together with accrued interest in five equal and successive monthly instalments commencing from 20.04.2015, and continues to keep up the regular instalments as per the original loan schedule, further proceedings for recovery of loan amounts from the petitioner 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