IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAIHTRA, 1937

WP(C).No. 9568 of 2015 (U)

PETITIONER:

VISWANATHAN V. S/O.VASU,
AGED 65 YEARS, NEETHI VIHAR, TRA - 97A,
THEVALLY P.O, KOLLAM WEST, KOLLAM.

BY ADVS.SRI.C.RAJENDRAN
SRI.K.R.RANJITH

RESPONDENT(S):
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1. **KERALA STATE CO-OPERATIVE BANK LIMITED,**
   KOLLAM BRANCH, KOLLAM, PIN - 691 001,
   REPRESENTD BY ITS AUTHORISED OFFICER.

2. **SMT.THANKAMONY B, W/O.VISWANATHAN V,**
   AGED 56 YEARS, NEETHI VIHAR, T.R.A - 97 A,
   THEVALLY P.O, KOLLAM WEST, KOLLAM - 691 013.

R1 BY SRI.GEORGE POONTHOTTAM, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 9568 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

P1- **A TRUE PHOTOCOPY OF THE PAPER PUBLICATION MADE BY THE 1ST RESPONDENT DATED 18.3.2014.**

P2- **A TRUE PHOTOCOPY OF THE ORDER DATED 26.11.2014.**

P3- **A TRUE PHOTOCOPY OF THE NOTICE OF THE 1ST RESPONDENT DATED 7.3.2015.**

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.K.JAYASANKARAN NAMBIAR, J.

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W.P.(C).No.9568 of 2015

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Dated this the 25th day of March, 2015

J U D G M E N T

The petitioner, who is the owner of the property that was offered as collateral security for the loan availed by his wife, is aggrieved by the steps taken by the respondent bank under the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, hereinafter referred to as the 'SARFAESI Act', against the said property, pursuant to a default committed by the wife in repayment of the loan amounts. Ext.P2 is the order of the Chief Judicial Magistrate Court II, Kollam. 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's wife is stated to be Rs.1,85,000/- together with accrued interest. Accordingly, if the petitioner pays the aforesaid amount of Rs.1,85,000/- together with accrued interest in eight equal and successive monthly instalments commencing from 10.04.2015, and continues to keep up the regular instalments as per the original loan schedule, the recovery steps initiated against the petitioner 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 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